



भारत का राजपत्र The Gazette of India

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615
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सं. 2] नई दिल्ली, शनिवार, जनवरी 14, 1989/ पौष 24, 1910
No. 2] NEW DELHI, SATURDAY, JANUARY 14, 1989/PAUSA 24, 1910

इस भाग में निम्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 25 नवम्बर, 1988

(आय-कर)

नई दिल्ली, 9 दिसम्बर, 1988

(आय-कर)

का.आ. 69.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उप-खण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त उप-खण्ड के प्रयोजनार्थ, केन्द्रीय सरकार, एतद्वारा "बम्बई जेबेरियन कारपोरेशन प्राइवेट लिमिटेड" को कर-निर्धारण वर्ष 1982-83 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8134/फा.सं. 197/171/88-आ.क. (नि-1)]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 25th November, 1988

(INCOME-TAX)

S. O. 69.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of section 10 of the Income-Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Bombay Xaverian Corporation Private Limited" for the purpose of the said sub-clause for the assessment year 1982-83 to 1988-89.

[No. 8134 (F. No. 197/171/88-IT (A-1))]

का.आ. 70.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उप-खण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उप-खण्ड के प्रयोजनार्थ, "मार थोमा चर्च आफ मालाबार, तिरुवाल, केरल" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8142/फा. सं. 197/187/87-आ.क. (नि-1)]

New Delhi, the 9th December, 1988

(INCOME-TAX)

S. O. 70.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of section 10 of the Income-Tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Mar Thoma Syrian Church of Malabar, Tiruvalla, Kerala" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8142 (F. No. 197/187/87-IT (A-1))]

का.आ. 71.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उप-खण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उप-खण्ड के प्रयोजनार्थ, "गोड सारस्वत ब्राह्मण टेम्पल ट्रस्ट, बम्बई" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8143/फा.सं. 197/17/88-आ.क. (नि-1)]

(INCOME-TAX)

S. O. 71.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of section 10 of the Income-Tax Act, 1951 (43 of 1961), the Central Government hereby notifies the "Gouri Saraswat Brahman Temples Trust, Bombay" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8143 (F. No. 197/17/88-IT (A-I))]

नई दिल्ली, 12 दिसम्बर, 1988

का. आ. 72—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "दि स्टूडेंट क्रिश्चियन मूवमेंट ऑफ इंडिया, बंगलौर" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8144/फा.सं. 197/17/88-आ.क. (नि.-1)]

New Delhi, the 12th December, 1988

(INCOME-TAX)

S. O. 72.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of section 10 of the Income-Tax Act, 1951 (43 of 1961), the Central Government hereby notifies "The Student Christian Movement of India, Bangalore" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8144/F. No. 197/17/88-IT (A-I)]

आयकर

का.आ. 73 —आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) के उपखण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "दि आस्तिक समाज, बम्बई" को कर-निर्धारण वर्ष 1985-86 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8145/फा.सं. 197/206/85-आ.क. (नि.-1)]

दलीप सिंह, विशेष कार्य अधिकारी

(INCOME-TAX)

S. O. 73.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of section 10 of the Income-Tax Act, 1951 (43 of 1961), the Central Government hereby notifies "The Asthika Samaj, Bombay" for the purpose of the said sub-clause for the assessment years 1985-86 to 1988-89.

[No. 8145 (F. No. 197/206/85-IT (A-I))]

DALIP SNIGH, Officer on Special Duty

केन्द्रीय उत्पाद शुल्क समाहर्तालय

अधिसूचना

क्रमांक 9/88

नागपुर, 13 दिसम्बर, 1988

का. आ. 74 —समाहर्तालय केन्द्रीय उत्पाद शुल्क, नागपुर, के श्री व्ही. आर. जैन, परीक्षक (लेखा), समूह "ख", निवर्तन की आयु प्राप्त करने पर दिनांक 30.11.88 के अग्रान्त में शसकाय सेवा से निवृत्त हो गए।

[फा. सं. II (3) 8/88/स्थापना-I/96032]

जैत राम केल, उप समाहर्ता (कार्मिक एवं स्थापना)

CENTRAL EXCISE COLLECTORATE

NOTIFICATION NO. 9/1988

Nagpur, the 13th December, 1988

S. O. 74.—Shri V. R. Jain, Examiner of Accounts, Central Excise Group 'B' of Nagpur Collectorate having attained the age of superannuation retired from Government service on 30-11-1988 in the afternoon.

[C. No. II (3) 8/88/Et. 1/96032]

I. R. KAIT, Dy. Collector, (P & E)

उद्योग संवत्सल

(औद्योगिक विकास विभाग)

आदेश

नई दिल्ली, 27 दिसम्बर, 1988

का. आ. 75 —केन्द्रीय सरकार, विकास परिषद (प्रक्रिया) नियम, 1952 के नियम 2, नियम 4 और नियम 5 के साथ पठित उद्योग (विकास और विनियमन) अधिनियम, 1951 (1951 का 65) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के उद्योग संचालन (औद्योगिक विकास विभाग) के आदेश सं. का.आ. 1520 तारीख 11 जून, 1987 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त आदेश

(i) क्रम सं. 15 के सामने विद्यमान प्रविष्टि के स्थान पर निम्न-लिखित रखा जाएगा, अर्थात्:—

श्री पी. वी. मेहता.

अपर औद्योगिक सलाहकार (कागज)

तकनीकी विकास महानिदेशालय, नई दिल्ली

सदस्य"

(ii) अंतिम पैरा में, "श्री ए.एन. राव, औद्योगिक सलाहकार (कागज)" शब्दों के स्थान पर "श्री पी. वी. मेहता अपर औद्योगिक सलाहकार (कागज)" शब्द रखे जायेंगे।

[सं. 3 (84)/86-कागज]

जी. सुन्दरम, अपर सचिव

पाद टिप्पण: मूल आदेश, भारत के राजपत्र भाग 2 खंड 3, उपखंड (iv) तारीख 26-6-87 में प्रकाशित किया गया था।

MINISTRY OF INDUSTRY

(Department of Industrial Development)

ORDER

New Delhi, the 27th December, 1988

S. O. 75.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), read with rules 2, 4 and 5 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby makes the following amendments in the Order of the Government of India in the Ministry of Industry (Department of Industrial Development) No. S.O. 1520 dated the 11th June, 1987, namely:—

In the said Order.

(i) against S. No. 15, for the existing entry, the following shall be substituted, namely:—

"Shri P. V. Mehta,

Additional Industrial Adviser (Paper),

Directorate General of Technical Development,

New Delhi.

Member";

(ii) in the concluding paragraph, for the words "Shri A. N. Rao, Industrial Adviser (Paper)", the words, "Shri P. V. Mehta Additional Industrial Adviser (Paper)" shall be substituted.

[No. 3(84)/86-Paper]

G. SUNDARAM, Under Secy.

Foot Note.—The principal order was published in Part II Section 3 Sub-section (ii) of the Gazette of India dated 20th June, 1987.

ऊर्जा दफ्तर

(कोयला विभाग)

नई दिल्ली, 23 दिसम्बर, 1988

का. आ. 76 --केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्थन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उप-धारा (1) के अधीन, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 19 दिसम्बर, 1987 में प्रकाशित, भारत के ऊर्जा मंत्रालय, कोयला विभाग की अधिसूचना सं. का. आ. 2316, तारीख 1 दिसम्बर 1987 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिसर में 5533.43 हेक्टर (लगभग) या 13179.44 एकड़ (लगभग) भाग की भूमि में कोयले का पर्वक्षण करने के अपने आशय की सूचना दी थी ;

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि में कोयला अधिप्राप्य है ;

अतः, अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित को अज्ञात करने के लिए अपने आशय की सूचना देती है :

(क) इससे संलग्न अनुसूची "क" में वर्णित 99.91 हेक्टर (लगभग) या 246.89 एकड़ (लगभग) भाग वाली भूमि ;

(ख) इससे संलग्न अनुसूची "ख" में वर्णित 995.53 हेक्टर (लगभग) या 2460.05 एकड़ (लगभग) भाग वाली भूमि में खनिजों के खनन, खदान, खोद करी, उनकी खूबाई करने और खनिजों के तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकार ;

टिप्पण 1 --इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के सं. सी 1 (ई)/III के अन्तर् (407/0488 तारीख 12 अप्रैल, 1988 वाले रेखांक का निरीक्षण कांस्टेबल चन्द्रपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, कार्डमिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में या वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व विभाग) काल एस्टेट, सिविल लाइन्स, नागपुर-1 (महाराष्ट्र) के कार्यालय में किया जा सकता है ।

टिप्पण 2 : पूर्वोक्त अधिनियम की धारा 8 के उपबन्धों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं :—

धर्जन करने के बारे में आक्षेप

"8 (1) कोई व्यक्ति जो किसी भूमि में जिसकी दायन धारा 7 के अधीन अधिसूचना निकाली गई है, हितवद्ध है, अधिसूचना के निकाले जाने के तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का धर्जन किए जाने के बारे में आपत्ति कर सकेगा ।

स्पष्टीकरण:—इस धारा के अन्तर्गत यह आपत्ति नहीं मानो जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन सन्धिपूर्ण करना चाहता है और ऐसी आपत्ति केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए ।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देना और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अनिवार्यताओं, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है कहा तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक स्थिति या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में अनिवार्यताओं पर अन्तिम विचारों और उसके द्वारा की गई कार्रवाही के अधिलेख सहित विभिन्न रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा ।

(3) इस धारा के प्रयोजनों के लिए यह व्यक्ति किसी भूमि में हितवद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता यदि भूमि या ऐसी भूमि में या उस पर के कोई अधिकार इस अधिनियम के अधीन अज्ञात कर लिए जाते ।"

टिप्पण 3 -- केन्द्रीय सरकार ने कोयला नियंत्रक, 1, कार्डमिल हाउस स्ट्रीट, कलकत्ता को उक्त अधिनियम के अधीन सक्षम प्राधिकारी नियुक्त किया है ।

अनुसूची "क"

क्षेत्र--निचोली ब्लॉक

चन्द्रपुर क्षेत्र

जिला चन्द्रपुर (महाराष्ट्र)

सभी अधिकार

क्र. सं.	भाग का नाम	पट्टाकारी नाम	महसोल	जिला	क्षेत्र हेक्टर में राजस्व वन	टिप्पणियाँ
1.	बिस्तर (स्टेशन)	बिस्तर (स्टेशन)	राजपुरा	चन्द्रपुर	31.42	भाग
2.	सुबे (स्टेशन)	बिस्तर (स्टेशन)	राजपुरा	चन्द्रपुर	63.24	5.25 भाग
कुल क्षेत्र				94.60	5.25 =	99.91
				हेक्टर (लगभग)		
				या 246.89 एकड़ (लगभग)		

भाग बिस्तर (स्टेशन) में अज्ञात किए जाने वाले प्लॉट सं.

172 से 175, 176 भाग, 179, 215 भाग, 228, 229, 231, 232, 234, 235, 247, 248

सूबे प्रांत में अज्ञात किए जाने वाले प्लॉट सं.

265 भाग, 281, 284, 285 (भाग), 296 से 288, 294 से 303, 314 भाग, 315 से 321, सड़क भाग ।

सीमा वर्णन :

(1)

- ण-ण1-ण2-ण3 : रेखा बिन्दु "ण" से प्रारंभ होती है ग्राम बिकर (स्टेशन) से प्लाट सं. 176 में से होकर जाती है फिर प्लाट सं. 174, 173, 172, 235, 234, 247, 248 की बाह्य सीमा के साथ-साथ जाती है और बिन्दु "ण 3" पर मिलती है।
- ण 3 — ड : रेखा ग्राम बिकर (स्टेशन) से प्लाट सं. 248, 234, 235, 231, 228, 229 और 215 की बाह्य सीमा के साथ-साथ जाती है और बिन्दु "ड" पर मिलती है।
- ड — ण : रेखा ग्राम बिकर (स्टेशन) से प्लाट सं. 215 से होकर जाती है फिर प्लाट सं. 229, 228, 231, 232, 173, 179 की बाह्य सीमा के साथ-साथ प्रसर होती है और बिन्दु "ण" पर मिलती है।

(2)

- ड-ड1-ड2-ड3 : रेखा बिन्दु "ड" से प्रारंभ होती है और ग्राम सुवे से होकर प्लाट सं. 265 से होकर जाती है और बिन्दु "ड" पर मिलती है।
- ड — ड : रेखा ग्राम सुवे से प्लाट सं. 265 में से होकर जाती है और प्रारंभिक बिन्दु "ड" पर मिलती है।

(3)

- ड — ड1 : रेखा "ड" बिन्दु से प्रारंभ होती है और ग्राम सुवे से प्लाट सं. 294, 303, 315 की बाह्य सीमा के साथ-साथ प्लाट सं. 314 मड़क में से होकर फिर प्लाट सं. 317, 318 की बाह्य सीमा से होकर जाती है और बिन्दु "ड1" पर मिलती है।
- ड1-ड2-ड3 : रेखा ग्राम सुवे से ड. प्र. रेल की पूर्वी सीमा के साथ-साथ जाती है, फिर नाले की उत्तरी सीमा के साथ-साथ जाती है और बिन्दु "ड3" पर मिलती है।
- ड3 — ड : रेखा ग्राम सुवे से प्लाट सं. 281, 284 की बाह्य सीमा के साथ-साथ प्लाट सं. 285 में से होकर जाती है, फिर प्लाट सं. 288, 296, 295, 294 की बाह्य सीमा के साथ-साथ जाती है और प्रारंभिक बिन्दु "ड" पर मिलती है।

अनुसूची "ख"

बिकर चिचौली ब्लाक

चन्द्रपुर खेज

जिला चन्द्रपुर (महाराष्ट्र)

खतम अधिकार

क्र. सं.	ग्राम का नाम	पटवारी साजा	तहसील	जिला	खेज हैक्टर में		टिप्पणियां
					राजस्व भूमि	वन	
1.	बिकर (स्टेशन)	बिकर (स्टेशन)	राजुरा	चन्द्रपुर	177.23	48.22	भाग
2.	सुवे	"	"	"	138.05	224.67	"
3.	कवितपैठ	बनौरा	"	"	3.93	190.26	"
4.	बनौरा	"	"	"	5.20	158.93	"
5.	चिचौली बुजसक	"	"	"	—	49.04	"
योग					324.41	671.12	
					= 995.3 हैक्टर (लगभग)		
					या		
					2460.05 एकड़ (लगभग)		

ग्राम बिकर (स्टेशन) में अर्जित किए जाने वाले प्लाट सं. :

2 भाग, 3 भाग, 4, 5 भाग, 9 भाग, 10 भाग, 11 से 13, 14 भाग, 15, 16, 17 भाग, 18, 51 भाग, 52 भाग, 53 से 67, 68 भाग, 70 भाग, 71, 72 भाग, 73 भाग, 74 भाग, 97 भाग, 98 भाग, 99 से 122, 123 भाग, 124 भाग, 125, 126 भाग, 127 भाग, 128 भाग, 129 भाग, 130 भाग, 133 भाग, 134 भाग, 137 भाग, 140 भाग, 141 से 143, 144 भाग, 145 भाग, 171 भाग, 176 भाग, 177, 178, 180 से 201, 202/1, 202/2, 203 भाग, 207 भाग, 208 भाग, 209 से 214, 215 भाग, 216 से 227, 250 भाग, 423 भाग, मड़क भाग ग्राम सुवे में अर्जित किए जाने वाले प्लाट सं. :

17 भाग, 18, 19, 20 भाग, 21 से 25, 26/1-26/2, 27 से 29, 30 भाग, 31 भाग, 32 भाग, 36 भाग, 37 भाग, 40 से 42, 43 भाग, 45 भाग, 46 भाग, 266 से 280, 282, 283, 285 भाग, 289 से 292, 293 (भाग), मड़क भाग, नाला भाग।

ग्राम कवितपैठ में अर्जित किए जाने वाले प्लाट सं. :

45 भाग, 61 भाग

ग्राम धनौरा में अजित किए जाने वाले प्लाट सं. :

189 भाग, 320 भाग, 321 भाग, 322 भाग

ग्राम चिचौली बूजक में अजित किए जाने वाले प्लाट सं. :

209 भाग ।

सीमा वर्णन

- क—घ रेखा बिन्दु “क” से प्रारंभ होती है और ग्राम बिहुर (स्टेशन) से जाने की दक्षिणी सीमा के साथ साथ जाती है और बिन्दु “ख” पर मिलती है ।
- ख—ग—घ रेखा ग्राम बिहुर (स्टेशन) से प्लाट सं. 52, 51, सड़क, 68, 70, 72, 74, 73, सड़क, 97, 98, 203, 207, 208 में से होकर जाती है, फिर ग्राम धनौरा से प्लाट सं. 321, 322, 320 में से होकर जाती है और बिन्दु “ब” पर मिलती है ।
- घ—ङ रेखा ग्राम धनौरा के प्लाट सं. 189 में से होकर जाती है और बिन्दु “ङ” पर मिलती है ।
- ङ—च रेखा ग्राम धनौरा से प्लाट सं. 189 में से होकर जाती है । फिर ग्राम कविलपेठ के प्लाट सं. 45, 61 में से प्रसर होती है और बिन्दु “च” पर मिलती है ।
- च—छ—ज रेखा ग्राम कविलपेठ के प्लाट सं. 4 से होकर जाती है, फिर ग्राम चिचौली बूजक में से होकर प्लाट सं. 209 में से प्रसर होती है, फिर चिचौली बूजक और ग्रामों की सामान्य सीमा के साथ-साथ आगत जाती है और बिन्दु “ज” पर मिलती है ।
- ज—झ—ञ रेखा ग्राम सूबे से होकर प्लाट सं. 32, 31, 30, 36, 37, 39, 46, 45, 43, सड़क, 20, 17, नाला में से होकर और बिन्दु “ञ” पर मिलती है ।
- झ—ट रेखा ग्राम सूबे से होकर, नाला प्लाट सं. 280, 279, 282, 283 की बाह्य सीमा के साथ साथ प्लाट सं. 280, 279, 282, 283 की बाह्य सीमा के साथ-साथ प्लाट सं. 235 में से होकर प्लाट सं. 289, 291, 292, 293 की बाह्य सीमा के साथ-साथ जाती है और बिन्दु “ट” पर मिलती है ।
- ट—ड—द रेखा ग्राम सूबे के प्लाट सं. 293, 265 में से होकर जाती है और बिन्दु “ड” पर मिलती है ।
- ड—ध रेखा ग्राम सूबे के प्लाट सं. 265 में से होकर जाती है, फिर ग्राम धनौरा के प्लाट सं. 189 में से होकर प्रसर होती है फिर ग्राम बिहुर (स्टेशन) के प्लाट सं. 250 में से होकर जाती है और बिन्दु “ध” पर मिलती है ।
- ध—ण रेखा ग्राम बिहुर (स्टेशन) से होकर प्लाट सं. 215 में से फिर प्लाट सं. 216, 227, 226, 192, 180, 181, 178, 177, 171 की बाह्य सीमा के साथ साथ जाती है और “ण” बिन्दु पर मिलती है ।
- ण—त—क रेखा ग्राम बिहुर (स्टेशन) के प्लाट सं. 176, 171, 145, 144, 140, 137, 134, 133, 130, 129, 128, 127, 126, 124, 123, 9, 10, 5, 3, 2, 14, 17, 423 में से होकर, फिर प्लाट सं. 18 की बाह्य सीमा के साथ-साथ जाती है और प्रारंभिक बिन्दु “क” पर मिलती है ।

[सं. 43015/13/87-सो. ए./एल एस डब्ल्यू.]

बी. बी. राव, प्रवर सचिव

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 23rd December, 1988

S.O. 76.—Whereas by the notification of the Government of India in the Ministry of Energy, Department of Coal No. S.O. 2516 dated 1st September, 1987 under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) published in Part-II, Section 3, Sub-section (ii) of the Gazette of India dated the 19th September, 1987, the Central Government gave notice of its intention to prospect for coal in 5333.43 hectares (approximately) or 13179.44 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas the Central Government is satisfied that coal is obtainable in a part of the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire;

- the lands measuring 99.91 hectares (approximately) or 246.89 acres (approximately) described in Schedule 'A' appended hereto;
- the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 995.53 hectares (approximately) or 2460.05 acres (approximately) described in Schedule 'B' appended hereto;

Note 1.—The plan bearing No. C-1(E) III/JR/407/0488 dated 12th April, 1988 of the area covered by this notification may be inspected in the Office of the Collector, Chandrapur (Maharashtra) or in the Office of the Coal Controller, 1, Council House Street, Calcutta or in the Office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-1 (Maharashtra).

Note 2.—Attention is hereby invited to the provisions of section 8 of the aforesaid Act which provides as follows:

Objections to Acquisition :

- “8(1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation.—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

- Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections,

objections and after making such further enquiry, if any, as he thinks necessary, either made a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land or make different reports in respect of different parcels of such land or of rights in or over such land to the Central Government, containing his recommendations on the objections together

with the record of the proceedings held by him for the decision of that Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act."

Note—3 : The Coal Controller, 1, Council House Street, Calcutta, has been appointed by the Central Government as the competent authority under the Act.

SCHEDULE 'A'

WIRUR CHINCHOLI BLOCK

CHANDRAPUR AREA

DISTRICT CHANDRAPUR (MAHARASHTRA)

ALL RIGHTS

Serial number	Name of village	Patwari Saza	Tehsil	District	Area in hectares		Remarks
					Revenue	Forest	
1.	Wirur (Station)	Wirur (Station)	Rajura	Chandrapur	31.42	—	Part
2.	Subai	Wirur (Station)	Rajura	Chandrapur	63.24	5.25	Part
Total Area:					94.66	5.25=99.91	Part
							hectares (approximately)
							or 246.89 acres (approximately)

Plot numbers to be acquired in village Wirur (Station) :

172 to 175, 176 Part, 179, 215 Part, 228, 229, 231, 232, 234, 235, 247, 248.

Plot numbers to be acquired in village Subai

: 265 Part, 281, 284, 285 Part, 286 to 288, 294 to 303, 314 Part, 315 to 321, Road Part

Boundary description :

- (1)
- 0-01-02-03 : Line starts from point 'O' passes through village Wirur (Station) in plot number 176, then along the outer boundary of plot numbers 174, 173, 172, 235, 234, 247, 248 and meets at point '03.'
- 03-N : Line passes through village Wirur (Station) along the outer boundary of plot numbers 248, 234, 235, 231, 228, 229 and 215 and meets at point 'N'.
- N-O : Line passes through village Wirur (Station) in plot number 215, then proceeds along the outer boundary of plot numbers 229, 228, 231, 232, 175, 179 and meets on the starting point at 'O'.
- (2)
- M-M1-M2-L : Line starts from point 'M' and passes through village Subai in plot number 265 and meets at point 'L'.
- L-M : Line passes through village Subai in plot number 265 and meets on the starting point at 'M'.
- (3)
- K-K1 : Line starts from point 'K' and passes through village Subai along the outer boundary of plot numbers 294, 303, 315 in plot number 314, Road, then along the outer boundary of plot numbers 317, 318 and meets at point 'K1'.

- K1-K2-J : Line passes through village Subai along the eastern boundary of S.E. Railway then along the Northern boundary of Nullah and meets at point 'J'.
- J-K : Line passes through village Subai along the outer boundary of plot numbers 281, 284, in plot number 285, then proceeds along the outer boundary of plot numbers 288, 296, 295, 294 and meets on the starting point 'K'.

SCHEDULE 'B'
WIRUR CHINCHOLI BLOCK
CHANDRAPUR AREA
DISTRICT CHANDRAPUR (MAHARASHTRA)

MINING RIGHTS

Serial number	Name of village	Patwari Saza	Tehsil	District	Area in hectares		Remarks
					Revenue	Forest	
1.	Wirur (Station)	Wirur (Station)	Rajura	Chandrapur	177.23	48.22	Part
2.	Subai	Wirur (Station)	Rajura	Chandrapur	138.05	224.67	Part
3.	Kavitpeth	Dhanora	Rajura	Chandrapur	3.93	190.26	Part
4.	Dhanora	Dhanora	Rajura	Chandrapur	5.20	158.93	Part
5.	Chincholi Buzruk	Dhanora	Rajura	Chandrapur	—	49.04	Part
Total					324.41	671.12	
					995.53 hectares (approximately)		
					or		
					2460.05 acres (approximately)		

Plot numbers to be acquired in village Wirur (Station) :

2 Part, 3 Part, 4, 5 Part, 9 Part, 10 Part, 11 to 13, 14 Part, 15, 16, 17 Part, 18, 51 Part, 52 Part, 53 to 67, 68 Part, 70 Part, 71, 72 Part, 73 Part, 74 Part, 97 Part, 98 Part, 99 to 122, 123 Part, 124 Part, 125, 126 Part, 127 Part, 128 Part, 129 Part, 130 Part, 133 Part, 134 Part, 137 Part, 140 Part, 141, to 143, 144 Part, 145 Part, 171 Part, 176 Part, 177, 178, 180 to 201, 202/1, 202/2, 203 Part, 207 Part, 208 Part, 209 to 214, Part 215 Part, 216 to 227, Part 250 Part, 423 Part, Road Part.

Plot numbers to be acquired in village Subai :

17 Part, 18, 19, 20 Part, 21 to 25, 26/1-26/2, 27 to 30 Part, 31 Part, 32 Part, 36 Part, 37 Part, 39 Part, 40 to 42, 43 Part, 45 Part, 46 Part, 265 Part, 266 to 280, 282, 283, 285 Part, 289 to 292, 293 Part, Road Part, Nullah Part.

Plot numbers to be acquired in village Kavitpeth : 45 Part, 61 Part.

Plot numbers to be acquired in village Dhanora : 189 Part, 320 Part, 321 Part, 322 Part.

Plot numbers to be acquired in village Chincholi Buzruk : 209 Part.

Boundary description :

- A-B : Line starts from point 'A' and passes through village Wirur (Station) along the Southern boundary of Nullah and meets at point 'B'.
- B-C-D : Line passes through village Wirur (Station) in plot numbers 52, 51, Road, 68, 70-72, 74, 73, Road, 97, 98, 203, 207, 208 and then proceeds through village Dhanora in plot numbers 321, 322, 320 and meets at point 'D'.
- D-E : Line passes through village Dhanora in plot number 189 and meets at point 'E'.
- E-F : Line passes through village Dhanora in plot number 189, then proceeds through village Kavitpeth in plot numbers 45, 61 and meets at point 'F'.

- F-G-H** : Line passes through village Kavithpath in plot number 45, then proceeds through village Chincholi Buzruk in plot number 209 then partly along the common boundary of villages Chincholi Buzruk and Subai and meets at point 'H'.
- H-I-J** : Line passes through village Subai in plot numbers 32, 31, 30, 36, 37, 39, 46, 45, 43, Road, 20, 17, Nullah and meets at point 'J'.
- J-K** : Line passes through village Subai along the outer boundary of Nallah, plot numbers 280, 279, 282, 283 in plot numbers 285, along the outer boundary of plot numbers 289, 291, 292, 293 and meets at point 'K'.
- K-L-M** : Line passes through village Subai in plot numbers 293, 265 and meets at point 'M'.
- M-N** : Line passes through village Subai in plot number 265 then proceeds through village Dhanora in plot number 189 then through village Wirur (Station) in plot number 250 and meets at point 'N'.
- N-O** : Line passes through village Wirur (Station) in plot number 215, then along the outer boundary of plot numbers 216, 227, 226, 192, 180, 181, 178, 177, 171 and meets at point 'O'.
- O-P-A** : Line passes through village Wirur (Station) in plot numbers 176, 171, 145, 144, 140, 137, 134, 133, 130, 129, 128, 127, 126, 124, 123, 9, 10, 5, 3, 2, 14, 17, 423 then along the outer boundary of plot number 18 and meets on the starting point 'A'.

[No. 43015/13/87-CA/LSW]

B.B. RAO, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 29 नवम्बर, 1988

का. आ. 77—जन साधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि स्नातकोत्तर चिकित्सा शिक्षा और अनुसंधान संस्थान, चण्डीगढ़ द्वारा निम्नलिखित पाठ्यक्रम चलाए जाते हैं, जिनके लिए डिग्रियाँ/डिप्लोमों पंजाब विश्वविद्यालय, चण्डीगढ़ द्वारा प्रदान किए जाते हैं :—

- (क) मास्टर ऑफ डेंटल सर्जरी (एम.डी.एस.)
पोडोडोंटिया और निरोधक संत चिकित्सा में विशेषज्ञता

- (ख) मेर-चिकित्सा डिग्रियाँ

1. परिचर्या में पी.एच.डी.
2. निम्नलिखित विशेषज्ञताओं में एम.एस.सी. :—

- (क) चिकित्सा शल्यक्रिया परिचर्या
- (ख) मनोविकार चिकित्सा परिचर्या
- (ग) सामुदायिक स्वास्थ्य परिचर्या
- (घ) बी.एस.सी. परिचर्या (बेसिक पश्चात)
- (च) बी.एस.सी. परिचर्या

[संख्या बी. 17012/3/86-एम.ई. (पी.जी.)]

MINISTRY OF HEALTH & FAMILY WELFARE

(Department of Health)

New Delhi, the 29th November, 1988

S. O. 77.—It is hereby notified for information of the general public that the Postgraduate Institute of Medical Education and Research, Chandigarh conducts the following courses for which the degrees/diplomas are awarded by the Panjab University, Chandigarh :—

- (a) Master of Dental Surgery (MDS) in the speciality of Pedodontia and Preventive Dentistry.

(b) Non-Medical Degrees :

- (i) Ph.D. in Nursing.

- (ii) M.Sc. Nursing in the following specialities :

- (a) Medical Surgical Nursing
- (b) Psychiatric Nursing
- (c) Community Health Nursing
- (c) B.Sc. Nursing (Post-Basic).
- (d) B.Sc. Nursing.

[No. V-17012/3/86-ME(PG)]

नई दिल्ली, 30 नवम्बर, 1988

का.आ. 78 :—स्नातकोत्तर चिकित्सा शिक्षा और अनुसंधान संस्थान द्वारा चलाए जा रहे पाठ्यक्रमों और प्रदान की जा रही डिग्रियों से धित पिछली सभी सूचनाओं और अधिसूचनाओं के अधिसूचना क्रम जनता की जानकारी के लिए यह सूचित किया जाता है कि संस्थान द्वारा निम्नलिखित डिग्री और डिप्लोमा पाठ्यक्रम चलाए जाते हैं :—

- (क) चिकित्सा डिग्रियाँ और डिप्लोमा में :

1. एम.डी. : संवेदनाहरण, जीव रसायन, त्वचा विज्ञान, चिकित्सा, सूक्ष्म जीव विज्ञान, प्रसूति विज्ञान और स्त्री रोग विज्ञान, बाल चिकित्सा विज्ञान, विकृति विज्ञान, श्रेष्ठ विज्ञान, मनोविकार चिकित्सा विकिरण निदान और विकिरण चिकित्सा।
2. एम.एस. : विकलांग शल्य चिकित्सा, नेत्र और कर्ण, नासा, कण्ठ शल्य चिकित्सा
3. डी.एम. : हृदय रोग विज्ञान, रोग लक्षण श्रेष्ठ विज्ञान, अंतः स्त्राविकी, जठरांत्र रोग विज्ञान, वक्क विज्ञान और तंत्रिका विज्ञान।

4. एम.सी.एच. मृदय चिकित्सा और दक्ष शल्य चिकित्सा, तंत्रिका शल्य चिकित्सा, बाल शल्य चिकित्सा, प्लास्टिक शल्य चिकित्सा और यूरोलाजी।

*5. पी. एच.डी. विभिन्न विषयों में पी.एच.डी.

*इस उपाधि को सभी चिकित्सा उपाधि माना जाता है जब उसे ऐसे व्यक्ति को प्रदान किया जाए जिसने पास भारतीय चिकित्सा परिषद, अधिनियम 1956 (1956 का 102) के अधीन चिकित्सा प्रवृत्ता हो।

(ख) गैर-चिकित्सा डिग्रियां और डिप्लोमों

1. i. एम.एस.सी. (भेषज विज्ञान)
- ii. एम.एस.सी. (जीव रसायन)
2. एम.एस.सी. चिकित्सा प्रायोगिकी
 - (1) जीव रसायन
 - (2) भेषज विज्ञान और शरीर क्रिया विज्ञान
 - (3) सूक्ष्म जीव विज्ञान, विशेष विषय के रूप में जीवाणु विज्ञान।
 - (4) सूक्ष्म जीव विज्ञान, विशेष विषय के रूप में परजीवी विज्ञान।
 - (5) सूक्ष्म जीव विज्ञान, विशेष विषय के रूप में विषाणु विज्ञान।
 - (6) विकृति विज्ञान, विशेष विषय के रूप में कोशिका विज्ञान।
 - (7) विकृति विज्ञान, विशेष विषय के रूप में रुधिर विज्ञान।
 - (8) विकृति विज्ञान, विशेष विषय के रूप में विकृत शरीर और उसके विज्ञान
 - (9) विकृति विज्ञान, विशेष विषय के रूप में रोग क्षमता विकृति विज्ञान।
 - (10) विकिरण विज्ञान, विशेष विषय के रूप में विकिरण चिकित्सा।
 - (11) विकिरण विज्ञान, विशेष विषय के रूप में विकिरण-निदान।
- (3) बी.एस.सी. चिकित्सा प्रायोगिकी
 1. एम्स-रे
 2. प्रयोगशाला
 3. विकिरण चिकित्सा
- (4) बी.एस.सी. (अव्यय विज्ञान और भाषा चिकित्सा)

डिप्लोमा पाठ्यक्रम

प्रापरेशन चिएटर सहायक

आम जानकारी के लिए यह भी सूचित किया जाता है कि स्नातकोत्तर चिकित्सा शिक्षा और अनुसंधान संस्थान चंडीगढ़ अधिनियम, 1956 (1956 का 51) की धारा 24 के अनुसार इस संस्थान द्वारा प्रदान की जाने वाली डिग्रियों और डिप्लोमों भारतीय चिकित्सा परिषद अधिनियम 1956 (1956 का 102) के प्रावधानों के लिए मान्य चिकित्सा प्रवृत्ता हैं और उन्हें अधिनियम की प्रथम अनुसूची में शामिल माना जाएगा।

[सं. बी-17012/3/86-एम ई (पी जी)]
सर्वोच्चर शा, उपसचिव

New Delhi, the 30th November, 1988

S.O. 78.—In supersession of all previous notices and notifications relating to the courses conducted and the degrees awarded by the Postgraduate Institute of Medical Education & Research, Chandigarh, it is hereby notified for information of the general public that the said Institute has been conducting courses leading to the award of the following degrees and diplomas:

(a) Medical Degrees and Diplomas:

(i) M.D.

Anaesthesia, Biochemistry, Dermatology, Medicine, Microbiology, Obstetrics and Gynaecology, Paediatrics, Pathology, Pharmacology, Psychiatry, Radio-diagnosis and Radiotherapy.

(ii) MS.

Orthopaedic Surgery, Ophthalmology and Otorhinolaryngology, Surgery.

(iii) D.M.

Cardiology, Clinical Pharmacology, Endocrinology, Gastroenterology, Nephrology, and Neurology.

(iv) M.Ch.

Cardiovascular and Thoracic Surgery, Neuro-Surgery, Paediatric Surgery, Plastic Surgery and Urology.

(v)* Ph.D.

Doctor of Philosophy in various subjects
*The degree is treated as medical degree is awarded to a person holding medical qualification under the Indian Medical Council Act, 1956 (102 of 1956).

(b) Non-Medical Degree and Diplomas:

1. (i) M.Sc. Pharmacology

(ii) M.Sc. Biochemistry

2. M.Sc. Medical Technology

(i) Biochemistry

(ii) Pharmacology and Physiology

(iii) Microbiology with Bacteriology as special subject.

(iv) Microbiology with Parasitology as special subject.

(v) Microbiology with Virology as special subject.

(vi) Pathology with Haematology as special subject.

(vii) Pathology with Cytology as special subject.

(viii) Pathology with Morbid Anatomy & Histology as special subject.

(ix) Pathology with Immunopathology as special subject.

(x) Radiology with Radiotherapy as special subject.

(xi) Radiology with Radio-diagnosis as special subject.

3. B.Sc. Medical Technology

(i) X-Ray

(ii) Laboratory

(iii) Radiotherapy

4. B.Sc. (Audiology and Speech Therapy).

5. Diploma Course.

Operation Theatre Assistant.

It is also notified for general information that in accordance with Section 24 of the Postgraduate Institute of Medical Education and Research, Chandigarh Act, 1956 (51 of 1956) the medical degrees and diplomas granted by the said

Institute shall be recognised medical qualifications for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) and shall be deemed to be included in the First Schedule of the Act.

[No. V-17012/3/86-ME(PG)]
SARWESHWAR JHA, Dy. Secy.

नई दिल्ली, 22 दिसम्बर, 1988

का.आ. 79:—केन्द्रीय सरकार, दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय दंत चिकित्सा परिषद से परामर्श करने के पश्चात् उक्त अधिनियम की अनुसूची का निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अनुसूची के भाग 1, में, क्रम संख्यांक 28 और उसके संबंधित प्रविष्टियों के पश्चात्, निम्नलिखित अंतः स्थापित किया जाएगा, अर्थात्:—

“29. मराठवाड़ा दंत शल्य-चिकित्सा बी.डी.एस. (मराठवाड़ा विश्वविद्यालय रत्नातक विश्वविद्यालय)”

[संख्या बी. 12018/7/86-पी एम.एस.]

New Delhi, the 22nd December, 1988

S. O. 79.—In exercise of the powers conferred by sub-section 2 of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consulting the Dental Council of India, hereby makes the following further amendment in the Schedule of the said Act, namely:—

In Part I of the said Schedule, after serial No. 28 and the entries relating thereto, the following shall be inserted, namely:—

“29. Marathwada University	Bachelor of Dental Surgery	BDS (Maharashtra University).”
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[No. V. 12018/7/86-PMS]

का.आ. 80:—भारतीय भेषजी परिषद् भेषजी अधिनियम, 1948 (1948 का 8) की धारा 18 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार के अनुमोदन पर, भारतीय भेषजी परिषद्, विनियमों का और संशोधन करने के लिए निम्नलिखित विनियम बनाती है; अर्थात्:—

1 (1) इन विनियमों का संक्षिप्त नाम भारतीय भेषजी परिषद् (संशोधन) विनियम 1988 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. भारतीय भेषजी विनियम के (जिन्हें इसमें इनके पश्चात् उक्त विनियम कहा गया है) भाग 8 के शीर्षक में “रजिस्ट्रार सचिव” शब्दों के स्थान पर “सचिव और रजिस्ट्रार” शब्द रखे जाएंगे।

3. उक्त विनियमों के विनियम 52 और 52-क के स्थान पर निम्नलिखित विनियम रखे जाएंगे, अर्थात्:—

“52 सचिव और रजिस्ट्रार, परिषद् का कार्यपालक अधिकारी होगा और प्रशासनिक रूप से अध्यक्ष के प्रति जिम्मेदार होगा।

52-क (1) सचिव और रजिस्ट्रार किसी मान्यताप्राप्त विश्वविद्यालय से भेषजी में स्नातक होगा और पर्याप्त प्रशासनिक अनुभव प्राप्त होगा।

(2) सचिव और रजिस्ट्रार की सेवाएं किसी भी पक्ष द्वारा तीन मास की सूचना दिए जाने पर समाप्त की जा सकेंगी। अध्यक्ष परिषद् की ओर से तीन मास की सूचना दिए जाने के पश्चात् सचिव और रजिस्ट्रार का आगमन स्वीकार करने के लिए प्राधिकृत होगा।

परिषद् को इस बात की सूचना परिषद् द्वारा या परिषद् की अगनी बैठक में दे दी जाएगी”

4. उक्त विनियमों के विनियम 53 के उपविनियम (1) में “बहु” शब्द के स्थान पर “सचिव और रजिस्ट्रार” शब्द रखे जाएंगे।

[संख्या बी.-13011/1/83-पी.एम.एस.]

जी.जी. के. नायर, अवर सचिव

S. O. 80.—In exercise of the powers conferred by section 18 of the Pharmacy Act, 1948 (8 of 1948), the Pharmacy Council of India with the approval of the Central Government, hereby makes the following regulations further to amend the Pharmacy Council of India Regulations, namely:—

1. (1) These regulations may be called the Pharmacy Council of India (Amendment) Regulations, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the heading of Part VIII of the Pharmacy Council of India Regulations (hereinafter referred to as the said regulations), for the words “Registrar Secretary, the words “Secretary-cum-Registrar” shall be substituted.

3. For regulations 52 and 52A of the said regulations, the following regulations shall be substituted, namely:—

“52. The Secretary-cum-Registrar shall be the Executive Officer of the Council and shall be administratively responsible to the President.

52A. (1) The Secretary-cum-Registrar shall be graduate in Pharmacy of a recognised University and shall have adequate administrative experience.

(2) The services of the Secretary-cum-Registrar may be terminated by giving three months notice on either side. The President is authorised to accept, on behalf of the Council, the resignation of the Secretary-cum-Registrar on three month's notice being given. The matter shall be brought to the notice of the Council either by circulation or at the next meeting.”

4. In sub-regulation (1) of regulation 53 of the said regulations, for the word “He”, the words, “The Secretary-cum-Registrar” shall be substituted.

[No. V-13011/1/83-PMS]

G. G. K. NAIR, Under Secy.

माध्यम संसाधन विकास मंत्रालय

(युवा कार्यक्रम और खेल विभाग)

नई दिल्ली, 1 नवम्बर, 1988

का. आ. 81:—जबकि “खिलाड़ियों के लिए राष्ट्रीय कल्याण कोष, नई दिल्ली” की महासमिति ने धर्मार्थ निधि अधिनियम 1890 (1890 का 6) के अन्तर्गत तत्कालीन शिक्षा और संस्कृति मंत्रालय (शिक्षा विभाग) में भारत सरकार की अधिसूचना सं. एस.बी. 166 (ई.) दिनांक 22 मार्च, 1982 द्वारा निर्धारित योजना में सुधार करने के लिए आवेदन किया है।

अतः, अब, कथित अधिनियम के खंड 5 के उपखंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उपरोक्त महासमिति की सहमति से केन्द्रीय सरकार खिलाड़ियों के लिए राष्ट्रीय कल्याण कोष योजना के नियमों में निम्नलिखित संशोधन करती है:—

कथित योजना में:—

(क) योजना के भाग-I के पैरा 2(घ) में “प्रतिमाह 700-रुपए से कम आय” शब्दों के स्थान पर “प्रतिमाह 1000-रुपए से कम आय” शब्द प्रतिस्थापित किए जाएं।

(ख) "योजना के भाग-III के पैरा 10 (II) (क) में "700/- से अधिक राशि नहीं" शब्दों के स्थान पर "1500/- रुपए से अधिक राशि नहीं" शब्द प्रतिस्थापित किए जाएं।

(ग) योजना के भाग-3 के पैरा (2) (ख) में "250/- रुपए से अधिक राशि नहीं" शब्दों के स्थान पर "1000/- रुपए से अधिक राशि नहीं" शब्द प्रतिस्थापित किए जाएं।

[मि.सं. 13-36/88/खेल-IV]

माता प्रसाद, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Youth Affairs and Sports)

New Delhi, the 1st November, 1988

S. O. 81.—Whereas the General Committee for "National Welfare Fund for Sportspersons, New Delhi" has made an application under the Charitable Endowments Acts 1890 (6 of 1890) for the modification of the Scheme settled in terms of the notification of the Government of India in the erst-while Ministry of Education and Culture (Department of Education) No. S.O. 166(E) dated the 22nd March, 1982

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 5 of the said Act, the Central Government, with the concurrence of the aforesaid General Committee, hereby makes the following further amendments in the rules of the National Welfare Fund for sportspersons Scheme, namely:—

In the said Scheme:—

(a) in para 2(d) of Part-I of the Scheme for the words "income of less than Rs. 700 per month" the words "income of less than Rs. 1000 per month" shall be substituted.

(b) in para 10(ii)(a) of Part III of the Scheme for the words "a sum not exceeding Rs. 700" the words "a sum not exceeding Rs. 1500" shall be substituted.

(c) in para 10(ii)(b) of Part III of the Scheme for the words "a sum not exceeding Rs. 250" the words "a sum not exceeding Rs. 1000" shall be substituted.

[No. F. 13-36/88-Sports IV]

MATA PRASAD, Jt. Secy.

अनुसूची - I

(1)	(2)	(3)
अधिसूचित स्थानों के नाम	वर्ग	एक ओर के प्रत्येक टिकट पर सीमाकर की दरें
	वयस्क	66 कि. मी. की दूरी से अधिक (5 से 12 वर्ष की आयु तक के बच्चे)
	ब. पं.	ब. पं.

1. इलाहाबाद जंक्शन

रेल मंत्रालय

रेलवे बोर्ड

नयी दिल्ली, 27 दिसम्बर, 1988

का. भा. 82.—रेल यात्री सीमाकर अधिनियम, 1956 (1956 का 69) की धारा 2 के खंड (ग) के अनुसरण में केन्द्रीय सरकार "JHUST" को उक्त अधिनियम के प्रयोजनार्थ 1 जनवरी, 1989 से 28 फरवरी, 1989 तक की अवधि के लिए एतद्वारा अधिसूचित स्थान घोषित करती है:

2. यह अधिसूचना 1 जनवरी, 1989 को लागू होगी।

[सं. एक (एस) 1-88-5-3/1]

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 27th December, 1988

S. O. 82.—In pursuance of clause (c) of section 2 of the Terminal Tax on Railway Passengers Act, 1956 (69 of 1956), the Central Government hereby declares "JHUST" to be a notified place for the purposes of the said Act, for the period commencing on the 1st January, 1989 and ending on the 28th February, 1989.

2. This notification shall come into force on the 1st day of January, 1989.

[No. F(X)1-88/5/3-I]

का. भा. 83.—रेल यात्री सीमा कर अधिनियम, 1956 (1956 का 69) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के रेल मंत्रालय (रेलवे बोर्ड) 13-1-82 की अधिसूचना का.भा.सं. 18 ई का अधिसूचना करते हुए केन्द्रीय सरकार एतद्वारा—

(क) इसके साथ संलग्न अनुसूची-I के कालम (3) में विनिर्दिष्ट, दरें उन दरों के रूप में नियत करती हैं जिन पर 1 जनवरी 1989 से 28 फरवरी, 1989 तक की अवधि के लिए उक्त अनुसूची-1 के कालम (1) में विनिर्दिष्ट अधिसूचित स्थानों से या रेल द्वारा ले जाए गए सभी यात्रियों पर, प्रत्येक रेल टिकट के सम्बन्ध में कालम (2) में विनिर्दिष्ट दर्जे के आधार पर सीमा कर वसूल किया जाएगा।

(ख) इसके साथ अनुसूची-II के कालम (3) में विनिर्दिष्ट दरें उन दरों के रूप में नियत करती हैं, जिन पर 1 मार्च 1989 से उक्त अनुसूची-II के कालम-1 में विनिर्दिष्ट अधिसूचित स्थानों से या तक ले जा गए सभी यात्रियों पर प्रत्येक रेल टिकट के संबंध में कालम (2) में विनिर्दिष्ट दर्जे के आधार पर सीमा कर वसूल किया जाएगा।

2. इस अधिसूचना का पहला पैरा खंड (क) 1 जनवरी, 1989 से लागू होगा और खंड (ख) 1 मार्च, 1989 से लागू होगा।

1	2	3	4
2. इलाहाबाद सिटी	बातानुकूल या पहला वर्ग/ 2-टियर बातानुकूल शायिका वर्ग	1.50	0.75
3. वाराणस			
4. मैती जंक्शन	बातानुकूल कुर्सी यात्रा वर्ग	1.00	0.50
5. प्रयाग			
6. प्रयाग घाट (जब खुला हो)	दूसरा वर्ग	0.50	0.25
7. काफामऊ			
8. धुबेदारगंज			
9. बहमरोली			
10. भूषी			

अनुसूची-II

अधिसूचित स्थानों के नाम	वर्ग	एक ओर के प्रत्येक टिकट पर सीमाकर को वरें व्यक्त (5 से 12 वर्ष तक के बच्चे)			
		थोड़ी दूरी के यात्रियों के लिए (66 कि.मी. से 242 कि.मी. तक)	लम्बी दूरी के यात्रियों के लिए (242 कि.मी. से अधिक)	थोड़ी दूरी के यात्रियों के लिए (66 कि.मी. से 242 कि.मी. तक)	लम्बी दूरी के यात्रियों के लिए (242 कि.मी. से अधिक)
		र. पं.	र. पं.	र. पं.	र. पं.
1. इलाहाबाद जंक्शन					
2. इलाहाबाद सिटी	बातानुकूल अथवा पहला	0.50	0.75	0.25	0.40
3. वाराणस	पहला वर्ग/2-टियर				
4. मैती जंक्शन	बातानुकूल शायिका वर्ग				
5. प्रयाग					
6. प्रयाग घाट	बातानुकूल कुर्सीयात्रा वर्ग	0.50	0.75	0.25	0.40
7. काफामऊ					
8. धुबेदार गंज	दूसरा वर्ग	0.10	0.20	0.05	0.10
9. बहमरोली					

स्पष्टीकरण:—वापसी टिकट पर सीमाकर इसमें नियत वरों से होगा।

[सं. फा. (एन्स-) 1-88/5/3/II]

स. मो. बैक, सचिव (रेलवे बोर्ड)

S. O. 83.—In exercise of the powers conferred by section 3 of the Terminal Tax on Railway Passengers Act, 1956 (69 of 1956) and in supersession of the notification of the Government of India in the Ministry of Railways (Railway Board) S.O. No. 18(E) dated 13th January, 1982, the Central Government hereby—

- (a) fixes the rates specified in column (3) of Schedule-I annexed hereto as the rates at which terminal tax shall be levied on the basis of the class of accommodation specified in column (2) in respect of every railway ticket on all passengers carried by railway from or to the notified places specified in column (1) of the said Schedule-I for the period on and

from 1st January, 1989 and ending on the 28th February, 1989; and

- (b) fixes the rates specified in column (3) of Schedule-II annexed hereto as the rates at which terminal tax shall be levied on the basis of the class of accommodation specified in column (2) in respect of every railway ticket on all passengers carried by railway from or to the notified places specified in column (1) of the said Schedule-II with effect from 1st March, 1989.

2. Clause (a) of the first paragraph of this notification shall come into force on the 1st day of January, 1989 and clause (b) thereof shall come into force on the 1st day of March, 1989.

SCHEDULE - I

Name of notified places	Class of accommodation	Rate of Terminal Tax Per Single Railway Ticket Beyond 66 Kms.			
		Adults		Children between 5 & 12 yrs of age	
		Rs.	P.	Rs.	P.
1	2	3			
1. Allahabad Jn. 2. Allahabad City. 3. Daraganj. 4. Naini Jn. 5. Prayag. 6. Prayag Ghat (when opened) 7. Phapamau. 8. Suberdarganj. 9. Bamhrauli. 10. Jhusi.	Air-conditioned or Ist Class/ Two Tier AC Sleeper Class.	1.50		0.75	
	AC Chair Car Class.	1.00		0.50	
	IInd Class.	0.50		0.25	

SCHEDULE - II

Name of notified places	Class of accommodation	Rates of Terminal Tax Per Single Railway Ticket							
		Adults				Children Between 5 & 12 years of age.			
		Short distance passengers (66 Kms. to 242 Kms.)		Long distance passengers (over 242 Kms.)		Short distance passengers (66 Kms. to 242 Kms.)		Long distance passengers (over 242 Kms.)	
		Rs.	P.	Rs.	P.	Rs.	P.	Rs.	P.
1	2	3							
1. Allahabad Jn. 2. Allahabad City. 3. Daraganj. 4. Naini Jn. 5. Prayag. 6. Prayag Ghat (when opened) 7. Phaphamau. 8. Subedarganj. 9. Bamhrauli.	Air-conditioned or Ist Class/Two Tier AC sleeper Class. AC Chair Car Class. IInd Class.	0.50		0.75		0.25		0.40	
		0.50		0.75		0.25		0.40	
		0.10		0.20		0.05		0.10	

EXPLANATION : The terminal tax on a return ticket shall be double the rates fixed herein.

[No. F(X)I/88/5/3-II]

S.M. VAISH, Secy. (Railway Board)

भारत सरकार

नई दिल्ली, 22 दिसम्बर, 1988

का. प्रा. 84—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम, गोहाटी के प्रबन्धतन्त्र के सम्बन्ध विवादों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिवक्ता, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-12-88 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 22nd December, 1988

S. O. 84.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Gauhati and their workmen, which was received by the Central Government on the 16-12-1988.

ANNEXURE 'A'

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 5 of 1982

PARTIES:

Employers in relation to the management of Food Corporation of India, Gauhati.

AND

Their Workmen.

PRESENT:

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES:

On behalf of Employers—Mr. B. N. Bagchi, Advocate.

On behalf of Workmen—Mr. Babul Bora, one of the workmen concerned.

STATE: Assam. INDUSTRY: Food Corp'n. of India.

AWARD

By Order No. L-42012/26/81-D. IV(A) dated 19th February, 1982, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication:

"Whether the action of the District Manager, Food Corporation of India, Nowgong, Assam in terminating the service of Sarvashri Babul Bora and Mahesh Chandra Bora, Watchman vide order dated 25-4-78 is justified? If not, to what relief are the concerned workmen entitled?"

2. The case of the Union which appears to have sponsored the cause of the workmen concerned has not filed any written statement. The workmen concerned named in the schedule to the reference have however filed the written statement and rejoinder. Their case as made out in the written statement is briefly as follows: The workman Babul Bora joined in the service of the Food Corporation of India (Corporation for brief) in 1975 as casual workman and since then he had been working continuously. The workman Mahesh Chandra Bora joined in the service of the Corporation in 1974 as casual workman and he had been continuously working from 3-11-1976. The District Manager of the Corporation at Nowgong took the interview of both the workmen concerned alongwith others and they were regularised as Watchman in the scale of pay of Rs. 210 to 290 plus other allowances by the Corporation as per its letter dated 10th February, 1978. Both the workmen concerned were below 25 years while they were appointed as casual workmen and were allowed to work as such.

The Corporation however by its letter dated 25th April, 1978 terminated the service of the concerned workmen on the plea that their age was more than 25 years on 1-3-1978. According to the workmen concerned they were not more than 25 on 1-3-1978 and accordingly the Corporation illegally terminated their service. Further case of the workmen concerned is that both of them continuously worked in the employment of the Corporation since their appointment as the casual workmen and that they worked for more than 240 days in each of the calendar years and that such being the position, the termination of their service by the Corporation without compliance of the provisions of the Industrial Disputes Act, 1947 in relation to the retrenchment is illegal and unjustified. Both the workmen concerned after the termination of their service by the Corporation's Order dated 25-4-78 approached the Corporation for revocation of the said termination but to no effect. The matter was then taken up by the Union and the failure report of the Conciliation Officer in the matter resulted in the present reference. The workmen concerned have claimed their reinstatement in service with back wages and consequential service benefits.

3. The case as made out by the Corporation in its written statement and rejoinder is as follows: A number of posts in Class-IV staff fell vacant and the Corporation in pursuance of the terms and conditions of the Staff Regulations asked the Employment Exchange to send the names of the candidates fulfilling the requirements as desired by the Corporation. One of the requirements was that the candidates must not be more than 25 years on 1-3-1978 excepting in the case of Schedule Caste and Schedule Tribe. The Employment Exchange sent the names of a large number of candidates including the workmen concerned. The candidates sponsored by the Employment Exchange appeared before the Interview Board. 28 candidates including both the workmen concerned who were working prior to 25-1-1976 as casual workmen in the Corporation were also selected for appointment with effect from 10-2-1978 on temporary and adhoc basis as Watchman in the aforesaid scale of pay with other admissible allowances with a rejoinder that their services would be terminated without assigning any reason thereof. Subsequently on scrutiny of the personal data of such appointees it was found that 12 of the said appointees including the workmen concerned were more than 25 years on 1-3-1978 and accordingly the Corporation by its letter dated 25th April, 1978 terminated their service with effect from that date on the ground that they were disqualified to be appointed because of their overage. The appointment of the concerned workmen by the Corporation's letter dated 10th February, 1978 being purely on temporary and adhoc basis the Corporation was justified in terminating their service in terms of the appointment. The Corporation further took-up the plea that the Corporation offered the workmen concerned the appointment of casual workmen as before. The workman Babul Bora accepted such offer but Mahesh Chandra Bora refused. Babul Bora has been working as the casual workman since then. It has been further contended by the Corporation that the workmen concerned did not work for more than 240 days in any calendar year as alleged by them and the termination of the temporary ad hoc service of the concerned workmen by the Corporation's Order dated 25-4-1978 is not the retrenchment and accordingly compliance of the provisions of section 25F of the Industrial Disputes Act, 1947 does not arise in this case. According to the Corporation the workmen concerned are not entitled to any relief.

4. It may be mentioned here that the Union which appears to have sponsored the cause of the workmen concerned for bringing the reference for adjudication seems to have lost interest because the Union has not filed any written statement nor has any office bearer of the Union appeared before this Tribunal at any stage. It has already been stated that both the workmen concerned as named in the schedule to the reference have filed the written statement and the rejoinder. It appears that upto certain stage they were represented by an advocate of their choice. From 10-6-1988 only Babul Bora, one of the concerned workman appeared before the Tribunal upto the stage of argument. Neither their lawyer nor the other concerned workman, namely Mahesh Chandra Bora however appeared. Be that as it may, both sides have adduced evidence, oral and documentary and Mr. Bagchi, the

Learned Advocate on behalf of the Corporation has advanced his argument and Babul Bora has made his submission on behalf of the concerned workmen.

5. Mr. Bagchi has challenged the maintainability of the reference itself on the ground that the Government of India while making the reference has not applied its mind as actually there was no complete conciliation proceedings according to the Corporation. The Corporation has however not called for and produced the relevant papers of the conciliation proceedings in support of such submission. The reference has been made by the Government of India on due consideration. It cannot be said without production of any material that the Government of India while making the reference has not applied its mind. The first ground with regard to the maintainability of the reference as raised by Mr. Bagchi, the Learned Advocate for the Corporation, is not therefore found to be sustainable.

6. There is no dispute to the fact that both the concerned workmen had been working in the Corporation as casual workmen from before 1976. The office order dated 10th February, 1978 (Ext. M-1) of the Corporation itself shows that the concerned workmen had been working at different centres of the Corporation from prior to 25-1-1976. WW-1 Mahesh Chandra Bora has stated in his evidence on oath that he entered into the Corporation in the year 1974 and was working as a casual workman. He has further stated in his evidence that in the preceding 12 months from 24-4-78 he worked for more than 240 days and that in other years also he worked for more than 240 days in a year. His evidence further shows that he was continuously working from 1976, although as casual workman. The said evidence of WW-1 Mahesh Chandra Bora could not be controverted or shaken by the Corporation.

7. The evidence of WW-2 Babul Bora who is another workman concerned shows that he entered into the service of the Corporation in 1975 as casual workman and that since then he had been working continuously without any break. This workman has further stated in his evidence that in every calendar year he worked for more than 240 days. The evidence of this workman also could not be controverted or shaken by the Corporation at the time of his cross-examination.

8. The Corporation has examined as many as four witnesses of whom MW-1 K. C. Sharma is the Deputy Manager, Personnel of the Corporation and MW-4 is the District Manager of the Corporation now posted at Silchar. Of the other two witnesses, MW-2 is the officer of the Employment Exchange and MW-3 is the S.I. of Assam Police in the 3rd Battalion. The Corporation has not adduced any evidence through their officers concerned who have given evidence in this reference, denying the workman's evidence that they continuously worked and that they worked for more than 240 days in each calendar year. On the other hand the evidence of the workmen concerned in this respect finds support from the certificate Ext. W-1 and W-4 issued by the Depot Incharge. According to the evidence of MW-4, the Depot Incharge is not authorised to issue certificate. The contents of the certificate are nothing but statement of facts. So the statements of facts with regard to the service of the concerned workmen as casual labour in Ext. W-1 and W-4 can be taken into consideration and the same support the evidence of the concerned workmen in this respect. Such being the position, I accept that the workmen concerned had been continuously working and that they worked for more than 240 days in each calendar year from 1975 in respect of Babul Bora and from 1976 in respect of Mahesh Chandra Bora.

9. In view of what has been stated above, now the question comes for decision as to whether the compliance of 240 days' work in a calendar year by any workman will give the said workman the status of regular employee under the employer. There is no doubting of the fact that Chapter VA of the Industrial Disputes Act, 1947 where the 240 days work in a calendar year has been referred to in connection with the definition of the 'continuous service' by a workman under section 25B, has not clearly stated anything in this respect. But it cannot be overlooked that Chapter VA of

the Industrial Disputes Act, 1947 dealing with lay-off and retrenchment has given some safeguard to his employment and in case of lay-off under section 25C and retrenchment under section 25F, the workman who has completed 240 days work in a calendar year is entitled to get some benefits from the employer, by way of compensation and one month's notice or pay in lieu of notice as the case may be under the aforesaid respective sections of the Industrial Disputes Act, 1947. In the case of Kapurthala Central Co-operative vs. Presiding Officer, Labour Court, Jullundur reported in 1984 Lab. I.C. 974 the Division Bench of the Punjab and Haryana High Court while discussing the scope of Section 25B of the Industrial Disputes Act, 1947, has observed as follows: "The inbuilt policy in the Act for drawing the dividing line of 240 days of service seems to us to be that if a workman had satisfactorily continued for a period of 240 days as envisaged in those provisions, he is as good as having been accepted permanently (though this fact does not figure in the Act) in employment".

10. In deference to the aforesaid observation, the concerned workmen in the instant case who have been found to have completed their 240 days' work in a calendar year under the employer prior to 10-2-1978 may be accepted as good as the regular employees of the employer—Corporation.

11. In the facts and circumstances the termination of service of the workmen concerned by the Corporation's letter dated 25th April, 1978 Ext. M-2 in violation of the provisions of Section 25F of the Industrial Disputes Act, 1947 is found to be illegal and unjustified from the angle of view as mentioned above.

12. Mr. Bagchi has however submitted that in the present case where the ad hoc temporary employment of the concerned workmen has been terminated and the concerned workman Babul Bora has been employed as casual labourer since such termination and when Mahesh Chandra Bora has refused to be employed as casual labour since after such termination, the provisions of section 25F of the Industrial Disputes Act, 1947 would have no application. I respectfully differ to agree with him on this point. "Retrenchment" as defined in section 2(oo) of the Industrial Disputes Act, 1947 means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include voluntary retirement, retirement on reaching the age of superannuation, termination of the service as a result of non-renewal of contract and the termination of the service of workman on the ground of continued ill-health. So the termination of the concerned workmen in this case is nothing but retrenchment in view of the facts and circumstances as already discussed and section 25F of the Industrial Disputes Act, 1947 with all its force is applicable.

13. Mr. Bagchi, the Learned Advocate for the Corporation has advanced another line of argument in support of the action of the Corporation. According to him for filling-up a number of vacant posts in Class-IV category the Corporation asked the Employment Exchange to send the names of the candidates with their particulars including the age as required by the Corporation and the Employment Exchange sent the names of a large number of candidates including the concerned workmen. The Corporation then took-up the interview of the candidates and gave ad hoc temporary appointment to 28 candidates also who were the casual labourers from before as they could not produce the necessary age certificates. Mr. Bagchi has further submitted that subsequently on scrutiny it was found that out of the aforesaid 28 candidates 12 candidates including both the workmen concerned were over-aged and accordingly in conformity with the Staff Regulations, the ad hoc temporary appointment of the said 12 candidates including the workmen concerned was terminated. According to Mr. Bagchi the Corporation had no other alternative but to terminate the services of such candidates.

14. The Corporation's letter dated 7-1-1978 to the Employment Officer Ext. M-3 no doubt shows that the Corporation asked the Employment Exchange to send the names of the candidates with the particulars including the age as mentioned therein. The Corporation has not produced the Employment Exchange's letter forwarding the names of the

candidates with particulars mentioned therein. Be that as it may, the evidence of MW-4 Mr. S. Goswami together with the Ext. M-4 shows that Mr. Goswami was one of the members of the interview board to take the interview of the candidates. It may be mentioned here that the Corporation fixed by their letter Ext. M-3 to the Employment Exchange that the age of the candidates to be sponsored by the Employment Exchange must not be more than 25 years as on 1-3-1978. Both the workmen concerned have stated in their deposition that they were interviewed. MW-4 has also deposed that the candidates including the workmen concerned whose names were sponsored by the Employment Exchange were interviewed. The Corporation's office order dated 10-2-1978 Ext. M-1 shows that 28 casual labourers including the workmen concerned were given temporary ad hoc appointment as Watchman in the scale of pay of Rs. 210 to Rs. 290 plus other admissible allowances under the Corporation. In the said office order however it has not been mentioned that the temporary ad hoc appointment was made pending the proof of their age subsequently. The office order is an order simpliciter in connection with the ad hoc temporary appointment of 28 casual labourers including the concerned workmen. The termination of such ad hoc temporary appointment also requires under the law of natural justice one month's notice before the termination of such service, although as per the office order the termination may be without assigning any reason. It is an undisputed fact that in the instant case no prior notice of termination of temporary ad hoc appointment of the concerned workmen was issued by the Corporation. The termination of temporary ad hoc appointment of the concerned workmen also attracts the provisions of section 25F of the Industrial Disputes Act, 1947. The termination of their ad hoc temporary service by the Corporation's letter Ext. M-2 in violation of the provisions of section 25F of the Industrial Disputes Act, 1947 is illegal and unjustified, even if it be assumed for the sake of argument that they were above 25 years on 1-3-1978.

15. Next comes the question whether both the workmen concerned were actually over 25 years on 1-3-1978 and even if they are found to be so whether their ad hoc temporary services can be terminated when according to the Corporation there was vacant permanent posts. Clauses 6 and 7 of Ext. M-13 Staff Regulations deal with the appointing authority and mode of appointment respectively. It appears from Clause 7 read with the table of the concerned appendix that the age limit for appointment to the post of Watchman is 25 years. The proviso to the said clause enjoins that in the case of exceptional qualification and experience, the age limit of the candidate not being the Scheduled Caste and Scheduled Tribe can also be relaxed. It has been found and the Corporation also has admitted this fact that the concerned both the workmen were continuously working in the Corporation from prior to 25-1-1976 and on the date of the interview as well as on date of their ad hoc temporary appointment they were in employment of the Corporation as casual workman. Such being the position, the Corporation could have applied the benefit of proviso to Clause 7 of the Staff Regulations on the ground of their exceptional experience. Be that as it may, the fact as disclosed in evidence, both oral and documentary, shows that the Corporation did not relax the age limit of the concerned workmen. The evidence as produced from both sides with regard to the date of birth of Babul Bora appears to be confusing. The record of registration of the Employment Exchange shows that Babul Bora's date of birth is 14-7-1958 and Mahesh Chandra Bora's date of birth is 31-8-1951. Ext. M-12 and M-12(a) respectively may be referred to in this connection. The letter dated 29-12-1983 Ext. M-9 from the office of the Employment Exchange to the Corporation also supports the same.

16. It is an undisputed fact that Babul Bora was previously employed in 3rd Assam Police Battalion. The letter dated 6-12-1983 received from the Commandant 3rd Assam Police Battalion Ext. M-10 shows that the year of birth of Babul Bora was 1945 as per the service sheet, the copy of which is marked Ext. M-10/1. It appears that all the aforesaid particulars were collected by the Corporation long after the reference was made by the Central Government for adjudication. It is not clear how the Corporation could arrive at the decision in April, 1978 while issuing the letter dated 25-4-1978 Ext. M-2 that the workmen concerned were above

25 years on 1-3-1978. It may be that the Employment Exchange while sponsoring the names of the candidates including the workmen concerned had also stated about the year of birth or the candidates as per the Employment Exchange record but the same has not been produced. Be that as it may, Babul Bora was not confronted with any suggestion at the time of his cross-examination that as per the service sheet in the 3rd Assam Police Battalion his year of birth was 1945. Such being the position, it will be against the principles of natural justice if the evidence given from the source of 3rd Assam Police Battalion is relied on without giving any opportunity to Babul Bora to explain the same. It is not in evidence that the service sheet Ext. M-10/1 was filled-up by Babul Bora himself. The year of birth as found in the Employment Exchange record in respect of Babul Bora has been falsified by Babul Bora himself by producing his own affidavit Ext. M-5. The said affidavit was sworn by Babul Bora himself and the affidavit shows that his date of birth was 31st January, 1953 on the basis of his horoscope. It is true that the horoscope has not been filed but the affidavit itself shows that his date of birth is 31st January, 1953 and not 14-7-1958 as mentioned in the Employment Exchange record Ext. M-12. In the absence of any other reliable evidence, the age of Babul Bora as mentioned in the affidavit can be relied on and it appears that he was not above 25 years on 1-3-1978. It may be mentioned here that it is an undisputed fact that Babul Bora entered into the employment of the Corporation as casual workman in 1975 and since then he had been continuing in such employment. This fact also shows that at the time of his first entry in the employment even as a casual workman he was far below the age of 25 years.

17. As regards Mahesh Chandra Bora we do not find any other evidence except his own oral evidence and the evidence as revealed by the Employment Exchange record. According to the Employment Exchange record Ext. M-12(a), the date of birth of Mahesh Chandra Bora is 31st August, 1951. Mahesh Chandra Bora in his evidence as EW-1 has stated that before his entering in the employment under the Corporation as casual workman in 1974 he had to apply for the job by an application and in the said application he mentioned his age as 21/22 years. So by his own oral evidence it appears that his date of birth was either in 1952 or 1953. So it appears that his date of birth as recorded in the Employment Exchange record undoubtedly on his own statement was the correct date of birth. Mahesh Chandra Bora has not produced any school leaving certificate to show his date of birth. In view of what has been stated above it appears that Mahesh Chandra Bora was above 25 years on 1-3-1978. It may be mentioned here that Mahesh Chandra Bora was in continuous employment as casual workman from 1976, although he entered into the employment as casual workman in 1974. So it is found at least that in 1976 he was below 25 not to speak of in 1974. So in his case also the Corporation could have applied the proviso to Clause-7 of Staff Regulations for relaxation of his age limit on 1-3-1978. It may be mentioned here that it cannot be understood also why in the case of the continuous casual workman of the Corporation, the age limit was fixed as on 1-3-1978. Be that as it may, it has already been shown that the workmen concerned by their continuous work for more than 240 days in each calendar year before 10-2-1978 acquired the protection of their continuous employment and the termination of their such employment by the Corporation's office order dated 25-4-1978 in violation of the provisions of section 25F of the Industrial Disputes Act, 1947 has been illegal and unjustified. It has also been shown that the termination of temporary ad hoc appointment of the concerned workmen which was given by the Corporation's office order dated 10-2-1978, by the Corporation's letter dated 25-4-1978 is violation of section 25F of the Industrial Disputes Act, 1947 is illegal.

18. In view of what has been stated above both the concerned workmen are entitled to reinstatement to their employment. As regards their back wages as claimed by the concerned workmen with other consequential service benefits, it appears that Babul Bora accepted the employment as casual workman offered to him immediately after the termination of ad hoc temporary appointment by the Corporation's letter dated 25-4-1978 and that Mahesh Chandra Bora

refused to accept such employment. The evidence of MW-4 Mr. Goswami may be referred to in this connection. His evidence further shows that Babul Bora is still now employed in the Corporation as casual workman. Babul Bora also admits the same at the time of his argument. It has already been stated that Mahesh Chandra Bora is not taking any interest in respect of this case after he deposed in 1983 and that he did not appear also at the last few dates of hearing. In his evidence Mahesh Chandra Bora has also not stated that he was not offered the employment as casual workman after the termination of his ad hoc temporary employment. He has not stated in his evidence that he has not been employed elsewhere. In the circumstances I find that it will not be in the interest of justice to allow the back wages from 25-4-1978 (date of termination of his service) to the date of reinstatement, to Mahesh Bora, although on his reinstatement he may get the other service benefits. Babul Bora being on a separate footing is entitled to get the back wages from 25th April, 1978 (date of termination of service) to the date of his reinstatement, subject to however to the deduction of the amount received by him as wages by way of casual workman during he said period, with other consequential service benefits.

19. In the result, the Corporation do reinstate both the concerned workmen within one month from the date of the award. The workman Babul Bora do get the back wages from 25-4-1978 to the date of reinstatement to the service, subject to the deduction of amount received by him as casual workman by way of wages during the said period, with all consequential service benefits, and workman Mahesh Chandra Bora shall however not be entitled to get the back wages for the period from 25-4-1978 to the date of his reinstatement to the service but he shall get other service benefits from the Corporation.

This is my Award.

Dated, Calcutta,

The 9th December, 1988.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-42012/26/81-D.IV(A)]

नई दिल्ली, 29 दिसम्बर, 1988

का.प्रा. 85.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व सैसर्ज ई. सी. विषय की डबार कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-12-88 का प्राप्त हुआ था।

New Delhi, the 29th December, 1988

S.O. 85.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Dabar Colliery of M/s. Eastern Coalfields Limited and their workmen, which was received by the Central Government on the 20th December, 1988.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 9 of 1985

PARTIES :

Employers in relation to the Management of Dabar Colliery of M/s. E.C.L.

AND

Their Workmen.

3372 GI/88—3.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employers—Mr. B. N. Lala, Advocate.

On behalf of workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(42)/84-D-IV(B) dated 28th February, 1985, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the management of Dabar Colliery of M/s. Eastern Coalfields Ltd., P.O. Sandih, District Burdwan was justified in superannuating Shri Matal Roy, Trammer from 1st January, 1983 ? If not, to what relief the workman concerned is entitled ?"

2. Mr. Lala, the learned Advocate, appears for the management. Nobody appears either for the Union or for the concerned workman. It appears that the concerned workman filed a petition on 10th October, 1988 before this Tribunal with copy both to the management and the union to the effect that he is no longer interested to proceed with the case before this Tribunal.

3. It appears from the concerned workman's petition that both the workman as well as the Union are not interested to proceed with the present Reference and accordingly I pass a 'No dispute' award in the case.

This is my award.

Dated, Calcutta,

The 12th December, 1988.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012/42/84-D.IV(B)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 26 दिसम्बर, 1988

का.प्रा. 86.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 26th December, 1988

S.O. 86.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the Vijaya Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 13th September, 1988

PRESENT :

Shri B. N. Lalge, B.A. (Hons), LL.B., Presiding Officer.

Central Reference No. Misc. 1/88

PETITIONER :

The Chairman and the Managing Director, Vijaya Bank,
Head Office, M.G. Road, Bangalore.

Vs.

RESPONDENT :

The General Secretary, Vijaya Bank Employees Federation,
220, Cubbonpet Main Road, Bangalore.

APPEARANCES :

For the Petitioner—Shri K. Jagadeesh Alva, Advocate.

For the Respondent—Shri V. Gopala Gowda, Advocate.

AMENDMENT TO THE AWARD

In the Central Reference No. 70/87, this Tribunal had passed an award on 16th December, 1987. It has been duly published in the Gazette.

2. On 22nd July, 1988, the Petitioner herein filed an application under Section 11 of the I.D. Act read with Section 114 of the C.P.C. and inter alia, it was stated that certain anomalies have arisen and that in the award passed by this Tribunal dated 16th December 1987, an amendment may be effected, directing that the fitment formula contained in the settlement dated 17th June, 1982 should be extended to the sub-staff who had been promoted even prior to 1979 by bringing their basic pay last drawn by them to the corresponding basic pay as per the third bipartite settlement notionally and thereafter to apply the fitment formula of the settlement dated 17th June, 1982.

3. Notice had been issued to the respondent and the said union has appeared.

4. On 22nd August, 1988, the respondent has filed his statement and had prayed that the petition of the I party petitioner may be rejected.

5. The matter was called for further hearing on today. Both the parties filed a memo, stating that the miscellaneous application may be allowed in terms of the prayer made in the petition. The submissions made by the advocates of both the sides are recorded. They admit about the execution and contents of the joint memo. I find that the joint memo is in the interest of the workman and that the award passed by this Tribunal on 16th December, 1987 should be amended in terms of the prayer column shown in the petition, and as described below.

6. In the result, the award dated 16th December, 1987 passed in Central Reference No. 70/87 of this Tribunal is amended to contain the direction as follows :

"The basic pay of those members of the sub-staff who have been promoted prior to 1979 should be notionally brought forward to the basic pay last drawn by such sub-staff to the corresponding basic pay as per the Third Bipartite Settlement and only thereafter the fitment formula of the settlement dated 17th June, 1982 should be applied and the other matters should be worked out as shown earlier in the Award."

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer

[No. L-12011/1/86-D IV(A)]

N. K. VERMA, Desk Officer

नई दिल्ली, 26 दिसम्बर, 1988

का.प्र. 88 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में, केन्द्रीय सरकार द्वारा अन्तर्गत एन्टरप्राइजिज के प्रबन्धन में सम्बन्धित नियोक्तों और उनके कर्मचारियों के बीच, अनुसूचना में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पचास को प्रकाशित कर्त्तव्य है, जो केन्द्रीय सरकार को 20-12-88 को प्राप्त हुआ था।

New Delhi, the 26th December, 1988

S.O. 87.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Jantakal Enterprises and their workmen, which was received by the Central Government on the 20th December, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated 15th December, 1988

PRESENT :

Shri B. N. Lalge, B.A.(Hons), LLB Presiding Officer

Central Reference No. 62/87

Old Central Reference No. 27/86

I PARTY

Shri M. J. Ramji Naik

S/o Jamala Naik

Shri M. J. Ramji Naik

D-Dedekerpura, Doddigenahall

P.O. Lhitrudurga Dist.

(Karnataka)

Vs.

II PARTY

Shri Jantekal Rejesekarappa,

Advocate and Mine Owner,

B.G. Jantakal Manganese

Mines, Ter Bazar,

Bellary 01.

APPEARANCES :

For the I party—Shri C. S. Kireety Setty, Advocate.

For the II party—Shri B. C. Prabhakar, Advocate.

AWARD

By exercising its power under Section 10(1)(d) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-26012/48/85-D.II(B) dated 29-10-1986.

2. By a General Order No. L-11025/A/87-D-IV (B) dated 13th February, 1987, it has been transferred to this Tribunal. It is at Sl. No. 64.

Point of Dispute

"Whether the termination with effect from 11-2-1983 of Services of Shri M. J. Ramji Naik, Ex-workmen of Jantakal Iron Ore Mines of M/s. Jantakal Enterprises by the said management without following the provisions of the Industrial Disputes Act, 1947 is legal, proper and justified? If not, to what relief is the workman entitled".

3. In his claim statement, the I party workman challenged the order of dismissal on various grounds.

4. The II party has contended in the counter statement that the order of termination is valid and it need not be disturbed.

5. When the matter was called for evidence, the II party management committed default and in receiving the evidence, of the I party, a considered award has been passed on 21-7-1988. The same was ordered to be published in the Gazette of India by an order No. L-26012/48/85-D.II(B)

dated 5th August, 1988. Thereafter, the II party management has filed a miscellaneous application and it was numbered as Misc. application No. 2/1988. Therein, the II party entered that the award passed by this Tribunal is ex-parte and in the interest of justice the same may be set aside. Notice was duly sent to the I party workman. He appeared and on 15-11-1988, the workman submitted that he had no objection to set aside the ex-parte award. A considered order was passed, setting aside the said award and the reference was resorted to its original number.

6. On the same day, both the parties have filed a joint found that it is in his interests and that an award should be admitted. Since the workman is receiving Rs. 3,500/-. I found that it is in his interests and that an award should be passed in terms of reference of the joint memo. The workman has filed a Memo dated 11-12-88 alongwith a receipt, showing that he has already received a sum of Rs. 3,500/- in full and final settlement of his claim.

7. In the result, an award is passed to the effect that the reference stands closed in terms of Joint Memo dated 15-11-1988. It shall form part of the award. It is enclosed.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

[No. L-26012/48/85-D.III(B)]

B. N. LALGE, Presiding Officer

BEFORE THE CENTRAL INDUSTRIAL TRIBUNAL
AND LABOUR COURT BANGALORE (DAVANGERE
CAMP)

Cr. No. 62/1987

FIRST PARTY :

Sri Ramoji Naik.

SECOND PARTY :

M/s. Jantkal Enterprises.

Joint Memo filed by both the parties.

Both parties submits as follows :

1. The second party management had discussed with the first party workmen and arrived at a settlement on the following terms.

TERMS

The second management has agreed to pay a sum of Rs. 3,500 (Rupees three thousand five hundred only) to the first party workman in full and final settlement of the claim made by the first party including the claim for reinstatement, back wages, bonus, gratuity, leave salary, etc.,

(b) The first party workmen has agreed to receive a sum of Rs. 3,500 in full and final settlement of all his claims including the claim for reinstatement back wages, bonus, gratuity, leave salary etc.,

(c) The second party management will tender the amount to the first party workmen within 15 days and it will produce the receipt in the court.

(d) The first workmen has agreed to receive the said amount and after the receipt of the amount he will intimate the same to the Hon'ble Court.

(e) With this settlement the relationship of Master and servant has come to an end leaving no claims whatsoever against both the parties.

2. Both parties respectively pray the Hon'ble Court to pass the award in terms of the above settlement, without cost.

Davangere, dated 15-11-1988.

FIRST PARTY WORKMAN.

Sd/-

M. J. RAMJI NAIK,
ADVOCATE FOR SECOND PARTY

का. भा. 88.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसेस भारत गोल्ड माइन्स लि. के प्रबन्धन में सम्बद्ध नियोजकों और उनके कार्यकारों के बीच, प्रमुख में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण, बंगलोर के पंचपट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 20-12-88 को प्राप्त हुआ था।

S.O. 88.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Gold Mines Ltd., and their workmen, which was received by the Central Government on the 20th December, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 15th October, 1988

PRESENT :

Shri B. N. Lalge, B.A. (Hons), L.L.B., Presiding Officer

Central Reference No. 12/88

I PARTY	II PARTY
Sri Ganeshan,	vs The Chairman cum
C/o Sr. Joint Secretary	Managing Director
Bharat Gold Mines Limited	M/s. Bharat Gold Mines Ltd.
Labour Association (INTUC)	Oorgaum Post,
Oorgaum Post, K.G.F.	K.G.F.

APPEARANCES :

For the I Party Shri K. Subba Rao, Advocate.

For the II Party Shri K. J. Shetty, Advocate

AWARD

By exercising its powers under Section 10(1)(d) and (2A) of the I.D. Act 1947, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-43012/32/87-D. III(B) dated 8-2-1988.

POINT OF REFERENCE

"Whether the dismissal of Sri Ganeshan, ex-Machine-man, T. No. 3248 from services with effect from 10-1-1981 by the management of Bharat Gold Mines Limited, Oorgaum Post, K.G.F. is justified. If not, what relief is the workman entitled to?"

2. Thereupon, the I party workman has filed his claim statement and inter alia, he contended that the order of dismissal passed against him is not sustainable.

3. The II party filed its counter statement and inter alia, contended that the I party workman had already chosen his forum before the Munsiff, K.G.F., by filing suit in O.S. No. 215/81, that the suit was dismissed, that he had also filed an appeal but however, it was withdrawn and that the present reference is not maintainable.

4. In view of the said contentions a preliminary issue had been raised on the point whether the reference is not maintainable for the reasons shown in Para 9 of the counter-statement.

5. Parties adduced evidence on the same and advanced their arguments.

6. A considered order dated 11-11-1988 has been passed, holding that the present reference is not maintainable.

7. However, the parties were called upon to advance arguments as to why an award should not be passed in view of

the said finding. The second party was further heard. No more point has been made out at the time of arguments. In view of my finding on the aforesaid issue, it follows that the I party workman cannot maintain the reference and it is liable to be rejected.

8. In the result, an award is passed to the effect that the reference is rejected for the reason that the I party workman had already chosen his remedy before the Civil Court and that the order passed by the II party B.G.M.L., dismissing the I party workman from service with effect from 10-1-1981 is justified and that he is not entitled to any relief.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL LABOUR COURT AT BANGALORE

Dated December, 1988

PRESENT :

Shri B. N. Lalge, B.A. (Hons), L.L.B., Presiding Officer.
Central Reference No 12/88

I PARTY	II PARTY
Shri Ganeshan,	Vs. The Chairman-cum-
C/o Sr. Joint Secretary,	Managing Director
Bharat Gold Mines Limited,	M/s. Bharat Gold
Labour Association (INTUC)	Mines Limited,
Oorgaum Post, K.G.F.	Oorgaum Post, K.G.F.

APPEARANCES :

For the I Party Shri K. Subba Rao, Advocate.

For the II Party Shri K. J. Shetty, Advocate.

ORDER

By exercising its powers under Section 10 (1)(d) of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-43012/32/87-D. III (B) dated 8-2-1988

POINT OF REFERENCE

"Whether the dismissal of Sri Ganeshan, ex-Machineman, T. No. 3248 from services with effect from 10-1-1981 by the management of Bharat Gold Mines Limited, Oorgaum Post, K.G.F. is justified. If not, what relief is the workman entitled to ?"

2. The I party workman has then filed his claim statement and inter alia, he has contended as follows.

He joined the II party as a Mechanician in August, 1958. He has put in 22 years of excellent service. A chargesheet dated 27-4-80 was issued to him, alleging that he along with Shri Annamalai and Shri Nagu were found stealing gold. He submitted his explanation. He has been involved in a false case. One Shri Balesubramanian held an enquiry against him. It was an empty formality. He was not allowed to have the assistance of a lawyer. His request for supply of list of witnesses and documents was turned down. The Enquiry Officer did not record the evidence faithfully. His findings are perverse. His previous record was not taken into account, while passing the order of dismissal. The II party has indulged in unfair labour practice. An award may be passed for reinstatement and consequential benefits.

3. The II party has filed its counter statement and inter alia, it is contended as follows :

He was employed by the II party, but it is not true that he was working to their satisfaction or that he had excellent service record. A chargesheet was issued to him. It is false that he was involved in a false case. He had committed theft of gold bearing quartz. A

detailed enquiry was held by Shri N. Balasubramanian. He was given all the reasonable opportunity to defend himself. He was permitted to cross-examine the prosecution witnesses and produce his own witnesses and also to examine himself. He was permitted to have the assistance of an office bearer of the trade union of which he is a member. The Enquiry Officer recorded the evidence correctly. The Enquiry Officer arrived at the finding, on the basis of the material placed before him. The order of punishment was passed, taking into account the gravity of the misconduct. He had filed an original suit in the court of the Munsiff, K.G.F. and in that suit this action of the management has been upheld. Having failed to get the relief in the court of the Munsiff, he preferred an appeal. He filed an interlocutory application for withdrawal of the case and to agitate the matter under the Industrial Disputes Act. The Hon'ble Civil Judge has entertained the said application, in spite of their objection. Since the I party has chosen his remedy before the Civil Court, he cannot re-agitate the same before this Tribunal. The reference may be rejected.

4. In view of the said pleadings, the following Issue No. 2 was raised and it was taken up as a preliminary issue in the first instance.

Issue No. 2

"Whether the reference is not maintainable for the reasons shown in Para 9 of the counter statement ?"

5. The II party has filed a certified copy of the judgement in O.S. No. 215/81 of the court of the Munsiff, K.G.F. It is marked as Ex. M-1.

6. The learned counsel for the I party has produced the order passed on I.A. No. 11 in regular appeal No. 9/85 on the file of Civil Judge, K.G.F. It is marked as Ex. W-1.

7. The parties have been heard.

8. My finding on the said issue is that the reference is not maintainable, for the reason that the I party workman had already chosen his forum before the Munsiff, K.G.F. and had obtained an adverse decree and that the permission to withdraw the appeal granted on I.A. No. 2 by the learned Civil Judge is of no consequence.

REASONS

9. Ex. M-1, the judgement in O.S. 215/81 on the file of the Munsiff, K.G.F. shows that the I party workman had raised all these points in his said suit and had sought the relief of declaring that the order of dismissal dated 2-1-1981 was illegal, inoperative, void and not binding on him and that he should be treated as on duty and that he is entitled to all the emoluments etc. The management had put forth similar contentions and had urged that the suit may be dismissed. In view of the said pleadings, the learned Munsiff had raised the following issues :

- (1) Whether the plaintiff proves that his dismissal from service by order dated 2-1-81 passed by 2nd defendant is illegal, inoperative and void as alleged?
- (2) Whether the plaintiff proves that the disciplinary authority has inflicted two punishments for one offence? If so, the said punishment is violative of principles of natural justice.
- (3) Whether this court has no jurisdiction to try the suit?
- (4) Is the court fee paid sufficient ?
- (5) Is the plaintiff entitled for declaration as sought?
- (6) What order?

10. The findings recorded by the learned Munsiff on them are as follows :

Issue No. 1. Negative

Issue No. 2. Negative

Issue No. 3. Negative

Issue No. 4. Affirmative

Issue No. 5. Does not survive.

Issue No. 6. As per final order for the following

in view of the said findings the learned Munsiff dismissed the suit. The said judgement is enclosed with decree and the decree shows that the suit has been dismissed.

11. There is no dispute on the point that the I party workman had filed an appeal, challenging the said judgement and decree and it was K. A. No. 9/85 on file of Civil Judge, K.G.F.

12. Ex. W-1, the certified copy of the order passed by the learned Civil Judge on I.A. No. 2 discloses that the appellant, viz., the I party workman had filed an application under order 23 rule 1 for permission to withdraw the appeal, without prejudice to his right to prosecute the matter before the Labour Commissioner. Order 23 Rule 1(3) of the C.P.C. states that where the court is satisfied that a suit must fail by reason of some formal defect or that there are sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim, it may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or such part of the claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of the claim. The said provision thus invests the court with the jurisdiction to grant permission for withdrawal with liberty to institute a fresh suit in respect of the same subject-matter or such part of the claim. The provision does not invest the court with any jurisdiction to grant leave, so that the plaintiff can approach any other forum. The contention of the learned counsel for the I party that under Ex. W-1, he had been permitted to proceed with the present reference, on due initiation of a dispute before the conciliation officer cannot be accepted.

13. For the purpose of discussion, supposing that the court of the Civil Judge, K.G.F. had the jurisdiction and competency to grant leave under order 23 Rule 1(3), it requires to be examined whether under Ex. W-1 the learned civil Judge, K.G.F. has ever reserved such leave to him. While discussing the interim application filed by the I party workman, the learned Civil Judge has observed on page 7 that the appellant had already chosen a forum by filing the suit before the learned Munsiff, KGF and that he had failed in that suit and thus he had preferred the appeal. The learned Civil judge has then observed that merely because the decree was binding on the appellant, the respondent, viz., the management cannot prevent him from approaching the Labour Commissioner for redressal of his grievance and that the management can oppose the claim of the workman even before the Labour Commissioner, on the ground that he had already had an adjudication of his right before the competent Court of civil jurisdiction. It is reiterated that the best possible order that the I party workman could have secured from the court of the Civil Judge, K.G.F. was that he may file another suit in the court of the munsiff for the same subject-matter or for a part of the claim, after setting right any legal lacuna or defect for which he had sought to withdraw the appeal. The order Ex. W-1 does not show that any such leave was given to him. The order passed on IA reads as follows—"IA 2 filed by the appellant is hereby allowed. The appellant is permitted to withdraw this appeal unconditionally. In the result, no costs". There is no order passed by the learned civil judge that the permission sought for by the appellant had been granted to him. Looking from any angle, I find that the order at Ex. W-1 does not assist the I party to raise an industrial dispute once again, ignoring the adverse decree passed against him.

14. The learned counsel for the II party cited the case of Sukhiram Vs. State of Haryana (1982 LAB IC Page 1282). From the said authority, it emerges that the termination of the services of a workman gives rise to a dispute, which arises out of the rights or liabilities accruing to him under the general or common law and even if the Industrial Disputes Act is not on the statute book, the workman had the right to resort to the ordinary civil court for redressal of his grievance in regard to the termination of his

services. It has been further stated in the said authority that since the workman has two alternatives, he has the discretion to choose either of them and if he chooses one of them, he cannot again claim to have the second remedy. In the present case, he had already chosen the remedy before the court of the Munsiff, KGF and having failed in that suit, he had already preferred an appeal, from the authority, it follows that a party cannot have chances regarding the merit of his case in the ordinary court of Civil jurisdiction and having learnt that he cannot succeed therein, he can withdraw the suit and then raise an industrial dispute under the provisions of the I.D. Act.

15. The learned counsel for the II party further referred to the case of Premier Automobiles Ltd., Vs. Kamiakar Shantaram Wadke (AIR 1975 Supreme Court Page 2238). The authority has laid down a principle that if the workman had chosen his forum and had obtained a decision from the civil court, he cannot re-agitate the same point and seek the same relief before this Tribunal. It has been observed in the authority that if the dispute is an industrial dispute arising out of a right or liability under the general common law and not under the Act, the jurisdiction of the Civil Court is alternative, leaving it to the discretion of the suitor concerned to choose his remedy for the relief which is competent to be granted. It is not the case of the I party workman that the court of the munsiff had no jurisdiction or that it was not competent to give him the relief claimed by him in the said suit. The authority thus precludes the I party workman, from re-agitating the same point before this Tribunal. In my opinion, the reference cannot be maintained. However, I have not heard the parties as to why an award should not be passed accordingly. The parties, are therefore, given another opportunity to argue as to why an award should not be passed accordingly.

16. In the result, it is held on issue No. 2 that the reference is not maintainable for the reason that the I party workman had filed a suit in OS No. 215/81 and that the suit had been dismissed and for the reason that the withdrawal of the appeal pending in RA No. 9/85 in the court of the Civil Judge, KGF by IA No. 2 does not entitle him to maintain the reference. The parties, are nowever called upon to argue as to why an award should not be passed accordingly.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer

[No. L-43012/32/87-D:III(B)]

नई दिल्ली, 27 दिसम्बर, 1988

का. भा. 89.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार मैसर्स कृष्णाया ऐसबेस्टस और बेरीटेस (प्रा.) लि., कृष्णा (प.प.) के प्रबन्धक से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुसूचित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 23-12-88 को प्राप्त हुआ था

New Delhi, the 27th December, 1988

S.O. 89.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Krishnappa Asbestos & Barytes (P) Ltd., Cuddapah (A.P.) and their workmen, which was received by the Central Government on the 23th December, 1988.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT
HYDERABAD

PRESENT :

Sri D. J. Jagannadha Raju, B.A., B.L., Presiding Officer;

Dated : 14th December, 1988

Industrial Dispute No. 10 of 1987.

BETWEEN :

The Workmen of Krishnappa Asbestos Barytes Pvt. Ltd.,
Cuddapah (A.P.).

AND

The Management of M/s. The Krishnappa Asbestos &
Barytes Pvt. Ltd., Cuddapah (A.P.)

APPEARANCES :

M/s. A. K. Jaya Prakash Rao, P. Damodar Reddy,
Ch. Lakshminarayana & V. N. Goud, Advocates
for the Workmen.

Sri P. Veera Reddy, Advocate for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. 1-29012/42/86-D. III(B) dated 30-1-1987 referred the following dispute under Sections 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of M/s. The Krishnappa Asbestos & Barytes Pvt. Limited, Cuddapah and their workman to this Tribunal for adjudication.

"Whether the action taken by the Management of M/s. The Krishnappa Asbestos & Barytes Private Limited, Cuddapah, in relation to their Kalamanigutta Asbestos Mine, in terminating the services of Shri S. Narayana Reddy, workman with effect from 19-9-1984 is legal and justifiable? If not, to what relief the workman is entitled?"

This reference was registered as Industrial Dispute No. 10 of 1987 and notices were issued to the parties.

2. The claim statement reads as follows :—The claimant Sri S. Narayana Reddy was working as Pump Operator in the Respondent undertaking from 22-9-1978. Though he was discharging duties as Pump Operator in the 'B' Form Book, his name is mentioned as Mucker coolie. He was also sent to participate in a competition as Pump Operator in connection with Safety Week Celebrations conducted by the Government in Cuddapah District at R. Palli in the year 1984. The claimant was paid wages as a Mucker coolie and he was never paid wages as a Pump Operator. The Pump Operator comes within the Category of skilled workers and he gets higher wages than unskilled Mucker coolie. As the claimant was working as Pump Operator below the ground level, he is entitled to much higher wages than Pump Operator working on the surface. The claimant is entitled for higher wages as a skilled Pump Operator working underground for the total period of his employment from 22-9-1978 to 19-9-1984. On 19-9-1984 his services were terminated by the Management. The Management was deceiving the worker by not paying the correct wages as fixed by the Government. They were paying lesser wages than what a workman is entitled to on the basis of nature of work done. In August 1984 the Manager and Foreman N. Bali Reddy summoned the claimant to the office and threatened him saying that he would be marked absent for 14 days continuously and that his name would be removed from 'B' Register. Then claimant reported the matter by way of representation to the Labour Enforcement Officer, Cuddapah. Because of this report with a view to take vengeance and to victimise him, the Management terminated the services of the claimant. While terminating his services, no written order was served on him and only a settlement of particulars is given. That settlement of particulars contains amount due to the work-

man with a view to settle his claims finally. In that statement it is shown that the workman was retrenched. The Management did not follow the procedure of retrenchment as contemplated under Section 25G of the I. D. Act. Normally for retrenchment, the junior most should be removed but here while the claimant is removed, several of his juniors were retained. They did not also retrench him after conducting the departmental enquiry and by imposing punishment. No allegations were made against the workman and no reasons are given for retrenching him from service. Section 25F(a) requires one month's notice in writing indicating the reasons for retrenchment, in view of notice wages for the notice period, have to be paid as the procedure contemplated under Sections 25G and 25F is not followed. The retrenchment of the workman is void ab initio and liable to be set aside. The Management was committing several irregularities in payment of wages, Bonus, Provident Fund to the workman. They were exploiting the ignorance and illiteracy of the workmen. They were committing various misdeeds in paying the amount. They were wrongly classified and lesser wages are paid. The detailed account of the amounts payable to him is given in Annexure. The claimant reserves the right to file additional statement if it is found necessary. The Tribunal may be pleased to set aside the retrenchment of the workman and reinstate him with effect from 19-9-1984 and direct the management to pay full back wages and grant him consequential benefits. The Tribunal should also direct the Management to pay difference of wages for him between the wages paid to him as unskilled workman and the wages payable to him as skilled Pump Operator working underground. The Management may be directed to pay the Bonus, Provident Fund and pay the cost of these proceedings. In the Annexure in all an amount of Rs. 13513.44 is claimed as due to the workman:

3. The counter filed by the Respondent-Management runs thus :—The reference made by the Government of India is illegal and unjust. It is contrary to law. The reference made is inoperative and void. The Petitioner herein voluntarily settled accounts and left the employment on his own. Therefore, there is no dispute much less an industrial dispute between the parties. Hence the reference made by the Government of India is unsustainable.

4. This Respondent does not admit any of the allegations in the claim statement. The Petitioner is put to strict proof of the same. He was not working as Pump Operator but he was only working as a Mucker coolie. The allegation that he is working as a Pump Operator is misconceived. The Pump Operators require requisite qualifications and practical knowledge in the field. The Petitioner does not have the requisite qualifications for the practical knowledge to work as a Pump Operator. Mere participation in the Mines Safety Week Celebrations does not confer on him position of a Pump Operator. If really he is doing the work of Pump Operator and he was being paid lesser wages, he would have definitely lodged a protest or complaint to the Management long ago. The allegation that his services were terminated is absolutely false. The Petitioner-himself requested the Management to settle his claim and accordingly his claim were settled, gratuity and other benefits were paid to the petitioner and he left the services on 19-9-1984. He has taken the amount and passed a proper receipt and quitting the employment. The theory of termination of service is now concocted story at the instance of the persons who are enigmatically disposed towards this Respondent. Now the false claim is foisted against this Respondent. In the letter dated 29-9-1984 the Petitioner categorically stated that there is no dispute whatsoever and hence the present dispute raised by the Petitioner is not at all maintainable and the petitioner is estopped from raising any industrial dispute.

5. The various allegations in para 2 of the claim statement clearly indicate that petitioner is interested in making false allegations against the Management. All the workmen of this Respondent are paid wages in accordance with the provisions of Minimum Wages Act. The registers are periodically inspected by the officials of the Labour Department and by the authorities of the Mines Department. None of the authorities or the workmen ever raised any controversy regarding the payment of less wages. This Respondent did not receive any representation dated 19-9-1984. He is not

aware of it. It is false to say that the Management is victimising him. The Management never terminated his services. The petitioner left the services of the Management voluntarily and he took all the amounts payable to him. There is no question of violating Sections 25F and 25G of the I.D. Act, as he voluntarily left the services of the Management. Gratuity and other benefits were paid to him and they were received by him without any demur. To maintain cordial relations he was also paid one month's salary voluntarily. It was paid on compassionate grounds and such payment does not create any right for the petitioner. There was no necessity for issuing any order of termination as he was leaving the services voluntarily. There is no question of setting aside order of termination by the Court. The claim for differences of wages is misconceived and this Court has no jurisdiction to entertain the claim. If even the Petitioner is entitled to such a claim the forum is elsewhere. He was rightly paid wages as a Mucker coolie in which category he was employed. There was no termination and there is no dispute in existence between the parties. Hence the reference of the dispute to the Tribunal is illegal and the reference has to be terminated. The Petitioner is not entitled to any relief. The reference may be rejected.

6. The points that arise for determination in this industrial dispute are :

- (1) Whether the Petitioner was working as a Pump Operator underground as claimed by him or he was only working as a Mucker coolie as contended by the Management ?
- (2) Whether the Petitioner voluntarily left the services after final settlement of his claims or whether his services were terminated without observing the provisions of the I. D. Act ?
- (3) To what relief, if any, is the Petitioner entitled ?

7. Point 1.—In the order of reference the workman S. Narayana Reddy is only referred to as a workman and there is no mention as to in what category he was working. It does not mention that he was working as Pump Operator or as a Mucker coolie. In the claim statement for the first time the workman claims that he was working as Pump Operator in the Mine and at the same time he admits that in the 'B' Form Register his name as entered only as a Mucker coolie. He claims that while work was being extracted from him as Pump Operator, a skilled category post. He was being paid wages only as a Mucker coolie, who is an unskilled workman. The documentary evidence clearly indicates that he is only a Mucker coolie and not a Pump Operator. Ex. W-4 particulars of settlement of the workers claim clearly described him as a Mucker. In Ex. W-1 he claims that he was working as Pump Operator but he was shown in the Registers as Mucker coolie. In Ex. M-1 the letter given by the workman to the Management at the time of his leaving the services, he clearly described himself as a person working as a Mucker in the Mine. In Ex. M-12(a) in the Register of employees at S. No. 447 the workman is described as Mucker. In view of the overwhelming documentary evidence showing that he is a Mucker it is very difficult to believe the oral evidence of the witnesses when he claims that he was working as a Pump Operator. In the chief examination WW-1 claims that he was working as Pump Operator but his name is entered in the 'B' Form Register as earth work coolie. He claims that in 1984 he was sent to participate in the Mines Safety Week Competition for the category of Pump Operators. No documents are produced to establish this claim. WW-2 a former employee of the Mine, who claims to be a close friend and associate of the workman, claims that he and S. Narayana Reddy (WW-1) are important people who started the Union. In the cross examination he admits that when WW-2 left services of the Respondent Company, the Petitioner Narayana Reddy was not even an employee of the Respondent and that Narayana Reddy joined service of the Respondent after WW-2 left the Company. Even WW-2 now states that the petitioner performed the duties of a Pump Operator. On behalf of the Management there is overwhelming evidence to show that he was only a Mucker coolie. Considering the voluminous evidence on behalf of the Management and considering the admissions of WW-1 himself, I hold on Point 1 that the Petitioner was working only as Mucker coolie and he was not working as Pump Operator as

claimed by him in the claim statement. The worker himself admits that he does not have qualifications for the post of Pump Operator except some experience as a person who maintained his own agricultural pump sets. I hold this point against the worker.

8. Point 2.—It is the claim of the Management that the worker voluntarily left the service after final settlement of his claims and that his services were not terminated by the Management. The workman claims that because of his Trade Union activities he was removed from service. I shall now examine the evidence to find out which of these two versions is correct.

9. WW-1 claims that as they started the Union, the Management threatened some of the Union Office bearers and he was called to the office and threat was given to him on 25-8-1984. Then he reported the matter to the Labour Enforcement authorities on 27-8-1984 and sent a copy of his report Ex. W-1 to the Management under Ex. W-3 on 19-9-1984. In Ex. W-1 which is written from Ippatla village. He claims that he was threatened on 25-8-1984 and hence he is complaining to the Labour Law Enforcement Authority. Ex. W-2 does not have any stamp of Labour Enforcement Officer office. One M. Karibasiah appears to have signed for Labour Enforcement Officer. I am unable to understand why the stamp of the office is not found on Ex. W-2, if really Ex. W-2 is a genuine document for a complaint Ex. W-1 which was sent on 27-8-1984. One interesting fact is that Ex. W-2 there is a writing to the effect that on 6-2-1985 M. Karibasiah talked at Pulivandla Court. All the postal stamps found on Ex. W2 relate to Guntakal in Ananthapur District showing postal stamp as 27-8-1984 and two other stamps one with the name Ippatla with the date 31-8-1984 and another stamp indicating Goddapani District with 31-8-1984. I am not able to understand how no postal stamp of 29-8-1984 of Guntakal is seen on the paper. If really Ex. W-1 was posted at Ippatla by Registered post on 27-8-1984 it is impossible for Guntakal post office to receive it on 28-8-1984. We find the stamp of Guntakal with the date 27-8-1984. It looks as if Ex. W-2 has absolutely no connection to Ex. W-1 and there is no proof of Ex. W-1 being received by the Labour Department officials. Ex. W-3 is certificate of posting and in this the date of postal stamp is corrected and WW-1 admits this correction. When we see the documentary evidence, we find that there is overwhelming documentary evidence to show that the worker left the service of the Company on his own. Ex. W-4 is the particulars of settlement under which money was paid to S. Narayana Reddy when he left the service. It gives a detailed account of the amount paid to him including retrenchment compensation and Bonus and cash value for leave. Ex. M-1 dated 29-9-1984 clinchingly shows that he received all the amounts payable to him and that he is leaving the Company and that he has nothing more to do with the Company. The numerous receipts Exs. M-2 to M-5 clearly show that various amounts were paid to him on 19-9-1984, as recited in Ex. M-1. Exs. M-8 to M-10 the original stamp receipts also show that payments were made on 19-9-1984. In spite of documentary evidence overwhelmingly indicating the petitioner is leaving the service voluntarily. Now the Petitioner comes forward with the oral claim that his services were terminated because of his Trade Union activities.

10. I shall now discuss the oral evidence to find out whether he was removed from service or whether he left the service on his own. In the chief examination he claims that on 19-9-1984 he was removed from service. He admits that Ex. W-4 indicates that he was paid retrenchment compensation. In the cross examination the witness went to the extent of stating that the signature in the claim statement is not his later he altered his version and admitted his signature. In the cross examination the witness admits that throughout the period of his services under the Respondent he never sent any notices demanding wages as Pump Operator while he was being paid wages as a Mucker coolie. He also admits that he signed on several papers on 19-9-1984 but he denies the suggestion that he voluntarily left the services, signed the papers and took amounts as indicated in Ex. W-4. Then he denies Ex. M-1. When questioned as to whether he mentioned about his signing the papers of the Management on 19-9-1984, he pretends ignorance. In the re-examination he claims that he signed only papers of the Management on 19-9-1984 on the promise that he would be paid on

the next day. When he is confronted with Exs. M-6 and M-7 Memos issued to him for unsatisfactory work, he denies his signatures. He denies the suggestion that he voluntarily left the job and went away taking all the amounts and now he has come forward with false claim. It was suggested to him that as he is getting good income from the land he left the service and went away to do agriculture. He himself admits that by nature he would not do service under others, if the lands are yielding good crops. Though he claims he is an office bearer of the Association, not a scrap of paper is filed to show that he is an office bearer of the Union. Reading the evidence of WW-1 one can easily say that he has no respect for truth and most of his statements are false and they are opposed to the documentary evidence. As WW-1 was not even a workman of the Respondent when WW-2 left the service of the Company. There is absolutely no scope of WW-2 having any personal knowledge about the work and conduct of WW-1 and the circumstances under which WW-1 left the service of the Company. WW-2 himself admits that he left the service in the Mine and took to cultivation. When WW-2 is confronted with Ex. W-5 the witness has no proper explanation and the entire theory of N. C. Gangi Reddy being the President of the Union falls to the ground because the letter of the Assistant Labour Commissioner Ex. W-5 clearly mentions that the workman removed Gangi Reddy from the Presidentship and that the disputes in the Mine were settled and the closed Mine was reopened. When the Assistant Commissioner asked the Union to submit their fresh list of demands on or before 23-8-1982 no such demands were furnished. The last paragraph of Ex. W-5 clearly mentions if no fresh demands are received, it would be taken as if that no action is necessary regarding the complaint dated 3-7-1982 and it would be treated as closed. Considering the unsatisfactory oral evidence of the Petitioner and the overwhelming documentary evidence of the Management, I hold that it is a clear case where W.W.-1 left the service of the Company voluntarily. The oral evidence of W.W.-1 the Office Manager clearly indicates that from 11th September, 1984 W.W.-1 was requesting the Management to relieve him and he was relieved on 19-9-1984 after making necessary payment. He admits that the amounts shown on paper are as on 12-9-1984 and actual payment was made on 19-9-1984 for the difference between these dates wages were paid under Ex. W4 MW2 the Mine Manager clearly stated that W.W1 was working as a Mucker coolie and he left the service on his own. After he went to Cuddapah he never came back to do service. After his visit to Cuddapah he did not send any communication but he stayed away. M.W3 the Mine Register Clerk clearly deposed that W.W.-1 left the service on his own and he was only a Mucker coolie and never Pump Operator. Considering the documentary evidence of the Management which receives full support from the oral evidence, I hold on Point 2 that W.W.1 voluntary left the service after final settlement of his claims and that his service was not terminated as claimed by him. Ex. W4 clearly shows that he was paid retrenchment compensation and all other amounts payable to him. I hold this point against the Petitioner.

11. Point 3 : In view of my findings on Points 1 and 2 the Petitioner's claim is a false claim and he is not entitled to any relief.

12. I answer the reference as follows :—The action of the Management in relieving W.W.-1 w.e.f. 19-9-1984 is perfectly legal and justified as the workman left the services of the Management voluntarily. He received all amounts payable

to him and then left the service. His services were not terminated by the Management. He is not entitled to any relief.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 24th day of December, 1988.

D. J. JAGANNADHA RAJU, Industrial Tribunal

APPENDIX OF EVIDENCE

Witnesses Examined for the Workmen :	Witnesses Examined for the Management :
W.W1 S. Narayana Reddy	M.W1 A. Ramachandruru
W.W2 E. Balaveera Reddy.	M.W2 M. V. Subba Rayudu
	M.W3 K. Narayana.

Documents marked for the Workmen .

- Ex.W1 Copy of the representation dated 27-8-1984 made by S. Narayana Reddy to the Labour Enforcement Officer, Guntakal(C).
- Ex.W2 Acknowledgement dated 29-8-1984 from Labour Enforcement Officer, Guntakal (C) to S. Narayana Reddy.
- Ex.W3 Certificate of posting dated 27-8-1984 addressed to A. Saipratappa.
- Ex.W4 Retrenchment particulars of S. Narayana Reddy.
- Ex.W5 Letter dated 11-8-1982 addressed to E. Balaveera Reddy, General Secretary, K. A. B. Employees' Union by the Assistant Labour Commissioners (C) Hyderabad with regard to representation of K.A.B. Employees' Union for payment of wages, Bonus and termination of services of employees.

Documents marked for the Management.

- Ex.M1 Letter dated 29-9-1984 addressed by S. Narayana Reddy to the Company stating that he had received gratuity and compensation from the Company fully and he had no relationship with the Company.
- Ex.M2 Photostat copy of the cash receipt dated 19-9-1984 for Rs. 70.50 (Rupees Seventy and Paise Fifty only) given by S. Narayana Reddy to the Krishnappa Asbestos & Barytes (P) Limited, Cuddapah.
- Ex.M3 Photostat copy of the cash receipt dated 19-9-1984 for Rs. 141.00 (Rupees One hundred and Forty one only) given by S. Narayana Reddy to the Krishnappa Asbestos & Barytes (P) Ltd., Cuddapah.
- Ex.M4 Photostat copy of the cash receipt dated 19-9-1984 for Rs. 137.40 (Rupees One Hundred Thirtyseven and Paise Forty only) given by S. Narayana Reddy to the Krishnappa Asbestos & Barytes (P) Ltd., Cuddapah.
- Ex.M5 Photostat copy of the cash receipt dated 19-9-1984 for Rs. 216.50 (Rupees Nine hundred Sixteen and Paise fifty only) given by S. Narayana Reddy to the Krishnappa Asbestos & Barytes (P) Limited, Cuddapah.
- Ex.M6 Statement dated 2-9-1984 made in Telugu by S. Narayana Reddy to the Manager.
- Ex.M7 Statement dated 3-10-1982 made in Telugu by S. Narayana Reddy to the Manager.
- Ex.M8 Cash receipt dated 19-9-1984 for Rs. 94.00 from S. Narayana Reddy to the Krishnappa Asbestos & Barytes (P) Ltd., Cuddapah.

Ex.M9 Cash receipt dated 19-9-1984 for Rs. 94.00 from S. Narayana Reddy to the Krishnappa Asbestos & Barytes (P) Ltd., Cuddapah.

Ex.M10 Cash receipt dated 19-9-1984 for Rs. 916.50 from S. Narayana Reddy to the Krishnappa Asbestos and Barytes (P) Ltd., Cuddapah.

Ex.M11 (a) Photostat copy of Form B with regard to Register of Employees (Ex. M12 is substituted by Ex. M11 (a) Ex. M11 is returned to party).

Ex.M12 (a) Photostat copy of Form B with regard to Register of Employees (Ex. M-12 is substituted by Ex. M12 (a) Ex. M12 is returned to party).

[No. L-29012/42/86-D. III (B)]

V. K. SHARMA, Desk Officer.

नई दिल्ली, 27 दिसम्बर, 1988

का. भा. 90.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक माफ़ मसूर के प्रबन्धन के सम्बन्ध में श्री उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सह ग्राम न्यायालय, बंगलूर के पंचतट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19 दिसम्बर, 1988 को प्राप्त हुआ था।

New Delhi, the 27th December, 1988

S.O. 90.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Mysore and their workmen which was received by the Central Government on the 19th December, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 13th December, 1988

PRESENT :

Shri B. N. Lalge, B. A. (Hons.), LLB; Presiding Officer

Central Reference No. 9/88

I PARTY :

Shri G. K. Prasanna
C/o The President,
State Bank of Mysore
Employees' Union,
Central Office
523 Avenue Road,
Bangalore-2.

Vs.

II PARTY :

The Charman and
Managing Director,
State Bank of Mysore
Head Office
P.R. No. 9727,
Bangalore-560009.

APPEARANCES

For the I Party : Shri N. Sampath Kumar, Advocate

For the II Party : Shri C. M. Nagabushana, Advocate

AWARD

By exercising its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-12012/182/87-D. II(A) dated 2nd March 1988.

3372 GI/88-4.

POINT OF REFERENCE

"Whether the action of the management of State Bank of Mysore, Bangalore is justified in dismissing Shri G. K. Prasanna, Typist-Clerk, Jagalur Branch from the services of the Bank? If not, to what relief the said workman is entitled?"

2. The 1st party workman has then filed his claim statement and inter alia, he has contended as follows.

The 1st party Prasanna is a member of the State Bank of Mysore Employees' Union. The union is registered under the Trade Unions Act. The II party has passed an order of dismissal against him on 9-1-1984. The dismissal is illegal on the following grounds :

- (1) The findings of the Enquiry Officer are vitiated, as the charge framed against him was ambiguous and bald;
- (2) The disciplinary authority failed to take into consideration his honest and true explanation, before framing of the charge;
- (3) There is a delay of 10 years in instituting and finalising the proceedings;
- (4) The enquiry held against him is opposed to the principles of natural justice. The Enquiry Officer was biased against him. He has given the findings under pressure and influence of the II party.
- (5) The Enquiry Officer deliberately did not direct the II party to place before him all the relevant and material documents and he did not arrive at a just decision;
- (6) Though it was proved that all the vouchers produced by the II party are genuine and passed by the competent authority, the Enquiry Officer has given, deliberately, wrong findings.
- (7) The Enquiry Officer has erred in throwing the burden on the I party to prove his innocence.
- (8) The Enquiry Officer has not taken into account the explanation given by the I party in support of his defence ;
- (9) The disciplinary authority failed to give him a copy of the findings and he was not given an opportunity of being heard before the findings were recorded. There is violation of the rule of audi alteram partem ;
- (10) The entire disciplinary proceeding was in violation of the bipartite settlement ;
- (11) When the show-cause notice was issued, proposing the punishment, he was informed to file a statement and seek a personal hearing. He had sought for personal hearing but it was not given;
- (12) Neither the Enquiry Officer nor the disciplinary authority have taken into account his previous unblemished record ;
- (13) Neither the Enquiry Officer, nor the disciplinary authority nor appellate authority took into consideration that the I party workman is already aged, that he is having dependents such as father, mother, sister, wife and two children, and the scope for getting any job is too remote; and
- (14) The punishment is harsh and disproportionate. No loss has been caused to the II party and no customer of the bank has demanded any reimbursement.

3. The orders passed by the disciplinary authority and appellate authority are opposed to the principles of natural justice. The order of dismissal may be set aside and he may be reinstated with consequential benefits.

4. The II party has filed its counter statement and inter alia, it is contended as follows :

The allegation that the charge framed against him is ambiguous and bald is not correct. It is not correct that his explanation was not taken into account. The allegation that there is any deliberate delay in instituting and finalising the disciplinary action is not correct. It is not true that the Enquiry Officer was biased or that the order of dismissal was passed under any pressure or influence. It is not true that the whole of the enquiry was opposed to the principles of natural justice. The Enquiry Officer has held the enquiry in a fair manner and has given him all the reasonable opportunity to defend himself. He was given a fair hearing by the Enquiry Officer. It is not true that the Enquiry Officer deliberately did not direct the II party to place material documents before him and to examine material witnesses. The I party, if so wanted could have requested the Enquiry Officer to ask the II party for production of documents or to examine some more witnesses. After due application of mind and careful consideration of the evidence placed before him, he has given his findings. It is not correct to say that the vouchers produced by the II party were all genuine or that they were duly passed by the competent authority. It is baseless to say that the Enquiry Officer had thrown the burden on the I party to prove his innocence. The allegation that the Enquiry Officer has grossly erred in not considering his explanation is not tenable. The misconduct committed by him was grave in nature and he has betrayed the trust and confidence reposed in him. The II party is a financial institution and it is a trustee of the money of the depositors. It has to follow strict rules and accepted code of conduct. The image of the II party has been damaged by the misconduct committed by him. It is not true that he was not employed since the date of his suspension. The allegation that the punishment is disproportionate is not tenable. He is not entitled to any relief. In reply to the amendment effected by the I party workman, the II party has filed an additional counter statement and therein it has been contended that the allegation that the rule of audi alteram partem has been violated is not correct. It is further stated that the II party has not violated any provision of the bipartite settlement, that no prejudice has been caused at any stage of the proceedings and even otherwise the whole evidence recorded in the domestic enquiry has been placed before this Tribunal and that he is not entitled to any relief.

5. In view of the said pleadings, one preliminary issue was raised as follows :

"Whether the II party proves that it has held the domestic enquiry in accordance with law?"

6. The II party management examined one witness and got marked Exs. M-1 to M-7.

7. The I party workman was then examined.

8. The parties were heard on the said issue.

9. By a considered order dated 26-7-1988, it has been held that the domestic enquiry conducted by the II party is in accordance with the law.

10. The parties were then called upon to adduce further evidence, if any.

11. The parties have not adduced any more evidence.

12. They have been heard.

13. My finding on the point of reference is as follows.

The action of the management of the State Bank of Mysore, Bangalore in dismissing Shri G. K. Prasanna, Typist-Clerk, Jagalur Branch from the services of the bank is justified. He is not entitled to any relief.

REASONS

14. The I party has raised mainly two contentions. The first of them is that the findings of the Enquiry Officer are perverse. The second one is that the provisions of the bipartite settlement have not been complied with, in as much as personal hearing was not given to him.

15. Perversity has two tests. The first one is to find out whether the findings of the Enquiry Officer are supported by

legal evidence. The second one is whether on the basis of the material placed on record, any reasonable person could have arrived at the findings complained of.

16. The II-party management has examined the Enquiry Officer, MW-1 Shri K. Rangashai. His evidence shows that the bank examined two witnesses and got marked several documents. The enquiry proceedings are marked as Ex. M-2. They are at pages 13 to 44 in the file. Ex. M-1 is the letter by which the I party Prasanna sought for the assistance of one Shri T. Manjunath. He was given that assistance. The evidence of the witness is at pages 154 to 177. The bunch is marked as Ex. M-3. Thereafter the I party employee has examined himself. He had no evidence to let in. His statement has been recorded at Ex. M-4. Thereafter the Enquiry Officer has given opportunities to both the parties to file their written arguments. They are marked as Exs. M-5 and M-6. The learned counsel for the I party did not point out either to the oral evidence of two witnesses or to any document got marked by the bank, to urge that the Enquiry Officer has admitted any piece of evidence, which was not admissible in evidence. The employee, WW-1 Prasanna has not alleged anything regarding the admissibility of evidence. His evidence does not show that the Enquiry Officer has admitted any piece of evidence which he could not have done, to show that it is a case wherein he has based his findings on no evidence.

17. The chargesheet issued against the workman dated 2-1-1980 is at page 8. He has been charged on three counts. The first head of the charge is that when he was working as a Typist-Clerk at Jagalur Branch between July 1975 and October 1976, he had prepared eight false debit vouchers for aggregate amount of Rs. 14,575 and had debited the said amounts against the accounts of 8 account holders on 8-10-1976. Their names, nature of account and the amounts have been described in detail. The second head of the charge is that on 6-12-1975, he prepared a false debit voucher for Rs. 300/- debited the said amount to the credit account of Shri B. T. Srinivasa Reddy, without his knowledge and authority and transferred the same to his own savings account, by preparing an unauthorised credit voucher. The third head of the charge is that he prepared and posted a debit voucher of Rs. 200/- on 4-7-1975 to the S.B. account of one Shri J. B. Nagaraj, without his knowledge and authority and transferred the said amount to his own savings bank, by preparing a false credit voucher. It is further alleged that he thus misappropriated the said amounts. The I party employee has denied the charges. Thereupon, the management proceeded to hold an enquiry. Ex. M-7 shows that along with his findings, the Enquiry Officer sent all the concerned papers to the disciplinary authority. The documents produced by the II party before the Enquiry Officer were such as 14 ledger extracts, head clerk's scroll, 15 vouchers, withdrawal slip No. 402843 dated 6th December, 1975 withdrawal slip No. 9412 dated 4th July, 1975 and certified extract of Para 9 of page 3 of Chapter 11 of Bank's book of instructions relating to advances. There is no dispute that the employee was represented by an Assistant of his own choice. As observed earlier, the management examined only two witnesses before the Enquiry Officer and in addition placed reliance on the aforesaid documents. In order to examine the point of perversity, certain principles have been shown in the Law of Industrial Disputes by O. P. Malhotra Fourth Edition on pages 874 to 876. It has been stated that a finding recorded in a domestic enquiry can be characterised as perverse only if it is shown that such a finding is not supported by any evidence at all or it is entirely opposed to the whole evidence adduced before it or no reasonable person could have come to the finding on the basis of such evidence. It has been also stated that if there is evidence on record, however, commendable it may be, and if it is acceptable and can be relied upon, then the conclusion arrived at cannot be said to be perverse. It has been further stated that the Tribunal should bear in mind the difference between a finding which is not supported by sufficient evidence and a finding which may have been based on inadequate and unsatisfactory evidence. In deciding the question whether a particular conclusion of fact is perverse or not it has been stated that the Industrial Tribunal would

not be justified in weighing the evidence for itself and determining the question of perversity of the view arrived at by the Enquiry Officer in the light of its own findings.

18. Keeping in view, all the aforesaid principles, the facts as discussed by the Enquiry Officer and the provision of the bipartite settlement made applicable by him require to be examined.

19. In the course of his arguments, the learned counsel for the II party submitted that the then Manager, one Shri Vital Rao was also proceeded with and after due enquiry, the management has imposed some punishment on him also. The cross-examination of the two witnesses by the representative of the employee would disclose that there was a regular enquiry against the said Vital Rao and that the charge against him was that he had passed the entries which were not supported by endorsements or vouchers or letters of authorisation. The sum total of the evidence produced by the II party would disclose the apparently the vouchers and entries in various books of accounts of the bank are correct, but the II party management alleges that there were no letters of authorisation by the account holders to support the debit vouchers. From the record, it is further disclosed that irrespective of the fact whether the Branch Manager was himself either dishonest or grossly negligent, the I party employee being a clerk had his own duty not to prepare the debit voucher, if it is not supported by the endorsement or by a letter of authorisation by the account holder and make consequent entries in the books of accounts and place them before the Branch Manager for passing them. It is in this context, that management alleges that though for superficial appearance the entries corresponded to the debit vouchers, the debit vouchers themselves had no supporting letters of authorisation and the fact that the Branch Manager has merely passed them will not absolve the I party employee from his responsibility that he had prepared the debit vouchers, made the consequent entries and had himself appropriated some of the amounts to his own S. B. account and had subsequently withdrawn the same.

20. In the first head of the charge, it is alleged that on 8-10-1976 without the knowledge and authority of the constituents, he had debited the following amounts in their accounts and had unauthorisedly transferred these amounts to the account of one Shri B. K. Srinivasa Jois, brother of Shri B. K. Satyanarayana Jois the then head cashier of the branch and thus he had passed on an undue pecuniary advantage to a constituent. The particulars are as follows:

Name	Nature of Account	Amount Rs.
(1) Shri M.G. Raju	Cash Credit	500.00
(2) Shri K.V. Madhav Rao	-do-	1,750.00
(3) Shri B.S. Anandappa	-do-	2,050.00
(4) Shri H. Devendrarajulu	-do-	1,200.00
(5) Shri J.M. Thippeswamy	-do-	1,400.00
(6) Shri B.T. Srinivasa Reddy	Current A/c.	5,800.00
(7) Shri S. Mallikarjunaswamy	Cash Credit	1,675.00
(8) Shri Mohamed Hayat	Demand loan	200.00
		14,575.00

The Enquiry Officer has marked the relevant paragraph 9 on page 3 of the Chapter 2 of the Bank's Book of Instructions relating to Advances as BEX 28. It is at page 175 in the file. The relevant portion reads as follows:

"A demand loan account is an advance for a fixed amount and no debits to the account may be made subsequent to the initial advance except for interest, insurance premia and other sundry charges."

Now, it is an admitted fact that there is a debit entry of Rs. 200 in the account of one Mohamed Hayat in his demand loan account. The learned counsel for the II party

strongly contended that as per the aforesaid instructions there could never have been a debit entry in a demand loan account subsequent to the initial advance and admittedly the debit entry of 8-10-76 was not for interest, insurance premium or sundry expenses, but it was for transferring the same to the account of Shri B. K. Srinivasa Jois. BEX-17 at page 163 shows that there was the credit entry of Rs. 14,575 to the account of Shri B. K. Srinivasa Jois on 8-10-76. The account extract of Mohamed Hayat is at BEX 16 at page 164. The account extract shows that on 10-10-75 when the initial advance of Rs. 1,500 had been made to him. Again on 8-10-76, a sum of Rs. 200 has been debited and it is transferred to the account of Shri B. K. Srinivasa Jois. The evidence of BW-1 and BW-2 shows that the transfer debit of Mohamed Hayat BEX 8 is in the handwriting and signature of I party employee Shri G. K. Prasanna. As observed earlier the entries at BEX 8, BEX 16 and BEX 17 apparently show that they have been passed by the then Branch Manager and that all of them are genuine entries. The contention of the II party is that whether these entries are correctly written or not is not the material question but it is that whether the constituent, viz. Mohamed Hayat has ever authorised for the debit of Rs. 200 or not. The learned counsel for the II party contended that the I party employee never requested the Enquiry Officer to call the said Mohamed Hayat as his witness and examined him. It was also argued that he never sought for the production of any letter of authorisation alleged to have been given by Shri Mohamed Hayat. It was further argued that there is no letter of authorisation for the debit of Rs. 200 by Shri Mohamed Hayat issued on any date nor any letter of authorisation of any other constituent, regarding whose accounts, the debit entries have been effected. The cross-examination of BW-1 and BW-2 is directed only on the point that the Branch Manager has passed the vouchers and entries and thus everything is neat, clean and regular. The learned counsel for the I party contended that a presumption arises under Section 114 of the Indian Evidence Act that the official acts have been done regularly and since the vouchers and the entries have been passed by the then Branch Manager, it may be presumed that they were supported by relevant letters of authorisation and more so, when bank has purposely and vindictively withheld the same. From the case put forth by the bank before the Enquiry Officer, the question for determination was not whether the debit vouchers and various entries were correctly written showing the due endorsements of the Branch Manager for having passed them, but whether these entries have been ever supported by the relevant endorsements or letters of authorisation of the constituents of the bank. The contention of the I party employee is that as an obedient clerk, he merely followed the instructions of the Branch Manager in preparing the vouchers and when he prepared those vouchers, there were letter of authorisation from the constituent for the debit of Rs. 200 on 8-10-76 cannot be accepted. The constituent Mohamed Hayat could not have given the letter of authorisation for the debit of Rs. 200 on that day to credit the said amount to the account of Shri B. K. Srinivasa Jois. Even supposing that Shri Mohamed Hayat had given some letter of authorisation for the debit of Rs. 200 the I party employee cannot claim that the debit voucher prepared by him at BEX 8 was prepared as a part of his duty. He cannot be permitted to plead that he prepared it on the behest of the Branch Manager, is a obedient clerk. There is no law or rule which states that an employee can be illegal or irregular act and claim privilege or protection saying that he has done so under the orders of his superior officer. When the management was satisfied with the evidence produced by it to show that the I party employee had prepared a debit voucher BEX 8 without the authority of the constituent Mohamed Hayat and had made subsequent entries in the relevant books of accounts, nothing prevented the I party employee from examining the said Shri Mohamed Hayat before the Enquiry Officer to show that he had ever issued, though he was not entitled to issue a letter of authorisation for the debit of Rs. 200 to his demand loan account on 8-10-1976. The evidence of BW-1 and BW-2 along with the aforesaid documents has proved that the cash credit account of Shri M.G. Raju the first name shown

in the first heading of the charge has been already transferred to the protested bills account. BW-2 has stated before the Enquiry Officer that whenever the bank finds that it is a doubtful case for the recovery of the amounts, the account of such a constituent is transferred to protested bills account. There is a debit entry of Rs. 300 on 8-10-76 in the cash credit account of Shri M. G. Raju. Now it has been established that the amounts owed by Shri M. G. Raju to the bank are difficult to be recovered. It is important to note that the debits, regarding which the debit vouchers were prepared by the I party employee and debit entries have been made by him relate to only cash credit or current accounts. One of the contentions raised by the I party was that no complaint of any customer has been produced and that there was no complaint by any customer at all. It cannot be forgotten that the debit vouchers relate to only cash credit or current or demand loan accounts. BW-2 has stated in the cross-examination that he cannot say whether these vouchers at BEX-1 to 8 BEX 18 and BEX 21 are genuine and whether the transactions represented by them are genuine. He has further explained as to whether a transaction can be genuine or not even if the documents appear to be genuine. In Ex. M-7, the report, the Enquiry Officer has discussed at considerable length as to how the contention of the I party employee cannot be accepted that he did not commit any act of misconduct while preparing these debit vouchers and making the corresponding relevant entries. Though it has been stated in the chargesheets that he had passed these entries, it is obvious that the Branch Manager had passed them and the misconduct on the part of the I party employee was that he had prepared and put forth the debit vouchers for being passed and that he had also made and effected the consequent entries corresponding to the debit vouchers. On going through the debit vouchers, the account sheets of all the eight constituents shown in the first head of the charge, it emerges that there were no supporting letters of authorisation for the debit vouchers and that the I party employee had prepared and made the debit vouchers and entries and had transferred a sum of Rs. 14,575 to the current account of Shri B. K. Srinivasa Jois, the brother of Shri B. K. Sathyanarayana Jois, the then Head Cashier of the Branch. It is not a case of the I party employee that he did so under any mistake of fact or out of some ignorance relating to the procedure to be followed.

21. The second head of the charge is that on 6-12-1975 he had prepared a debit voucher of Rs. 300 relating to the current account of Shri B. T. Sreenivasa Reddy and had transferred the said amount to his own savings account and had subsequently withdrawn the same and thus he misappropriated the said amount. The statement given by the I party employee before the Enquiry Officer is marked as Ex. M-4. It is at pages 42 to 44. At the outset itself he states that on 8-10-1976 on the specific order of the manager and on the strength of the authorisation letters, he prepared the nine vouchers at BEX 1 to BEX 9. As regards BEX 4, he states that it pertains to one Shri N. Devendrapa and not Shri Devendrapa Rajulu. The said mistake is admitted by the management. He then states that all these vouchers have been passed by the Manager, including the credit voucher and that the authority letters were pinned to the concerned vouchers. The only witness whether these debit vouchers were ever enclosed with the letters of authorisation was the then Branch Manager, Vittal Rao and he himself had been proceeded with separately for the said acts of misconduct on his part. The management was thus at a disadvantage in not examining the said Vittal Rao before the Enquiry Officer. There are no authorisation letters. The nature of accounts and the circumstances under which the debit vouchers have been prepared and the entries have been made, indicate that the I party employee had prepared them without the authority of the constituents and had transferred the said amount to the account of Shri B. K. Srinivasa Jois with a dishonest intention.

22. In regard to the second head of the charge, the I party employee states in Ex. M-4 that he has some relative in Davangere and he used to visit Davangere often and since Shri B. T. Srinivasa Reddy was known to him, he used to bring some spare parts of automobiles at his request from Davangere. He then states that Shri Srinivasa Reddy used to pay him on seeing his bills and if any extra

amount was ever paid by him, the same used to be given by Shri Srinivasa Reddy. His statement further reads that on one such occasion Shri Srinivasa Reddy had requested to bring some lubricant oil and had paid him some money and while making the purchase, the amount paid by him was short by Rs. 300 which he had paid from his own pocket. He then adds that when the matter was brought to the notice of Shri Srinivasa Reddy by showing the bill, the latter had no money with him and therefore he gave a letter of authorisation to debit to his account and that the letter of authorisation was brought to the notice of the Manager and the Manager allowed him to prepare the debit voucher and pass the slip. Indeed, the debit voucher and the corresponding entries are to be found, but there is no letter of authorisation. It is not the case of the I party employee that when the enquiry proceedings were going on against him, the relations between himself and Shri Srinivasa Reddy had ever become strained or that there was any other difficulty for him in not examining him before the Enquiry Officer. Throughout its case, the management has been contending that there has been no letter of authorisation supporting any debit entry. It is one of the allegations of the I party employee that there is likelihood of destruction of papers on account of frequent quarrels between the then Manager or Vittal Rao and the successor Manager Rahamathulla. Nothing has been brought on record to show that there has been any complaint made either to the management or to the police regarding destruction of papers. In the aforesaid context, the fact whether a letter of authorisation had been given by Shri B. T. Srinivasa Reddy was within the exclusive knowledge of the I party employee or the said Vittal Rao or the said Shri B. T. Srinivasa Reddy himself. One cannot expect that the I party employee could have examined the then Branch Manager, Vittal Rao, but nothing prevented him from examining the person to whom he had obliged on many occasions, viz., Shri B. T. Srinivasa Reddy to show that he had given a letter of authorisation for the debit of Rs. 300 on 6-12-1975. It cannot be forgotten that the corresponding credit entry is in favour of the I party employee himself and in that context it was all the more necessary for him to justify the credit to himself. Under Section 111 of the Indian Evidence Act where there is question as to good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden to prove the good faith of the transaction is on the party who is in a position of active confidence. The bank stood in the position of active confidence in relation to its constituents and as between the bank and its employees, the employee stand in the position of active confidence and if he has effected any entry in the account books of the bank in his own favour, burden of proving the good faith of the transaction lies on him, when the dispute is between himself and the bank. Under such circumstances, it was for the I party to establish that there was all the good faith in preparing the debit voucher and in effecting the debit entry of Rs. 300 and crediting the said amount to his own account. The contention that there is no complaint by Shri B. T. Srinivasa Reddy is of no avail when the bank itself disputed that there was ever any letter of authorisation by Shri Srinivasa Reddy for the said debit.

23. The third head of the charge is that on 4-7-1975 the I party employee had prepared a debit voucher for Rs. 200/- and debited the said amount to the account of Shri J. B. Nagaraj, a deposit collector of the bank and effected a credit entry to his own account and subsequently withdrew the said amount. In Ex. M-4 the explanation given by the I party is that Shri J. B. Nagaraj is a Janata Deposit collector of the bank and in June 1975 he had taken Rs. 200/- from him and that he had issued a letter of authorisation to debit his account when the commission of the Janata deposit collection was to be credited to his account and pay the same to him. He further adds that the letter was given to the manager as per the request of Nagaraj and then he prepared the voucher and he had paid the letter to the voucher and the manager passed the same. Since the advantage of the debit voucher has been in favour of the I party employee, the same principle of Section 111 of the Indian Evidence Act comes into play and again there is no explanation by the I party employee as to why he did not examine Nagaraj. The learned counsel for the II party

bank contended that since there were no letters of authorisation, it was not possible for the bank to prove a negative thing and it was for the I party employee to have established that Shri B. T. Srinivasa Reddy and Shri J. B. Nagaraj did issue the letters of authorisation in Ex. M-4, there is no case that Nagaraj is not on good terms with the I party employee or that he had any other reason not to examine him before the Enquiry Officer. Neither in the summing-up report, Ex. M-6 nor in his explanation dated 9-6-1983 to the second show cause notice at page 102, there is any contention that he had any explanation in not examining Shri B. T. Srinivasa Reddy or Nagaraj. The moot question is not whether the constituents Shri B. T. Srinivasa Reddy and J. B. Nagaraj had ever complained to the management about the debits, but it is whether the I party employee can claim that he had followed the correct procedure and had duly prepared that debit vouchers and made the consequent entries. On going through the report, Ex. M-3 in the context of the oral evidence of the witnesses, BW-1 Shri B. A. Gopala Setty and BW-2 Shri T. Ramachandran and the documents at Ex. M-3 series, I find that it cannot be said that the findings of the Enquiry Officer are perverse.

24. The learned counsel for the I party contended that the management ought to have examined the account holders in order to prove that they had not given the letters of authorisation. In reply, the learned counsel for the II party contended that it is the case of the II party that no letters of authorisation had been ever given and that the I party employee never called for any alleged letters of authorisation and there was no necessity for the bank to have called the account holders as their witnesses. Accepting for a while for the purpose of discussion that the burden was on the management to have produced the constituents and accepting that an adverse inference requires to be drawn against the management, it requires to be examined whether the management has established its case. The case of the management throughout is that there was no letter of authorisation by any constituent and that the I party employee had prepared debit vouchers and had affected consequent entries with a fraudulent intention of making wrongful gain in favour of Shri B. K. Srinivasa Jois or himself. The analysis regarding the demand loan account of Mohamed Hayat shows that the I party employee can never claim that he was justified in preparing the debit voucher and effecting the said entries and the mere fact that the Branch Manager had passed them does not absolve him his own responsibility. Notwithstanding any such adverse inference, I find that the whole of the evidence placed before the Enquiry Officer indicates that in a series of transactions, he same modus operandi has been followed and it is not a case wherein an employee can claim bona fide mistake or acting under the orders of superiors in good faith.

25. The learned counsel for the I party contended that there is no case of the management that the I party employee has practised any fraud on the manager and thus it may be held that he had acted under the orders of the Manager and he had prepared the vouchers and made the entries when he had before him the letters of authorisation. The management has contended that the then Manager has been duly proceeded with and has been punished and under such set of circumstances, it cannot be said that the management has shielded the Manager or that it has falsely involved the I party employee. It is reiterated that the question is not whether the said Manager has acted dishonestly or in a gross negligent manner, but it is whether the I party employee has committed any act of misconduct in preparing the said debit vouchers and making the entries.

26. The learned counsel for the I party strongly contended that the management ought to have held a joint enquiry against the said manager and the I party and for not doing so, it has indulged in unfair labour practice. Holding of an independent enquiry gave the I party employee better opportunity to defend his own case and he was saved of all the trouble of facing the counter allegations, which he had to face at the hands of the said Manager Vittal Rao, if ever a joint enquiry had been held. In my view, it cannot be said

any prejudice has been caused in holding a separate enquiry against him.

27. The learned counsel for the I party vehemently argued that the management has not given the I party employee an opportunity of being heard in person when the stage was to consider the nature of the proposed punishment, though it was asked for and thus the disciplinary proceedings are vitiated. As per clause 19.12 of the Bipartite Settlement the management is required to give a hearing in regard to the proposed punishment. In order to support his contention, the learned counsel placed reliance on the case of State Bank of Mysore Vs. R. Shamanna (ILR (Karnataka) 1984(2) page 738). The authority states that a hearing is required to be given as per rule 19.12. It emerges from the authority that failure to give such a hearing would vitiate the order of penalty.

28. In reply, the learned counsel for the II party contended that since this Tribunal is exercising jurisdiction under Section 10 of the Act and that it has got wider power to consider about the nature of the punishment under section 11-A of the Act, the principle laid down in the authority is of no assistance to the I party. It was submitted for the II party that before this Tribunal the I party employee had all the opportunity to adduce evidence and argue the matter in regard to the punishment also whereas he had no such opportunity before the Hon'ble High Court when the matter was being dealt with only under Article 226 of the Constitution and under such circumstances the authority does not help him. It is obvious that no useful purpose will be served merely by setting aside the order relating to punishment and directing the management to give him a personal hearing regarding punishment and then pass an order relating to punishment. In my opinion in order to obviate such a situation of passing an order of remand by the Tribunal, a provision has been made as per Section 11-A of the I.D. Act. All the opportunity was available here to the I party employee to adduce evidence and to demonstrate that the punishment imposed on him is not commensurate with the alleged act of misconduct.

29. The learned counsel for the I party tenaciously argued that an Enquiry Officer was only authorised to hold an enquiry by the disciplinary authority and there was no delegation of authority or power on him to record findings and that it was for the disciplinary authority to have heard the I party employee in person before accepting the findings. The procedure to be followed in the case of disciplinary action is laid down in the Bipartite Settlement as per clause 19.12. There is nothing in clause 19.12 that a personal hearing should be given by the disciplinary authority before he accepts the findings recorded by the Enquiry Officer. The submission made by the learned counsel for the I party in substance means that the Enquiry Officer cannot record findings at all and his business is only to record evidence and receive evidence and send the same to the disciplinary authority and it is for the disciplinary authority to record the findings after giving a personal hearing to the employee. It is difficult to find out any such import in the wordings of the clause 19.12. Since there is a specific provision that before the disciplinary authority considers about the nature of the proposed punishment, a personal hearing should be given to the employee, it is obvious that no rule of natural justice or audi altera partem has been infringed.

30. The learned counsel for the II party cited the case of Union of India Vs. Jyoti Parkash Mitter (AIR 1971 Supreme Court Page 1093) and argued that personal hearing is not a necessary incident of the rules of natural justice. In paras 24 and 25 of the authority, a rule has been enumerated that a very denial of opportunity of making an oral representation will not vitiate the proceedings. In view of the said authority, it is obvious that the disciplinary proceeding held against him cannot be said to have been vitiated because the disciplinary authority did not give him a personal hearing before the findings of the Enquiry Officer were accepted by him.

31. The learned counsel for the I party referred to the case of Surinder Singh Vs. Hardial Singh and others (AIR 1985

Supreme Court page 89). It was argued that mere preponderance of probabilities is not sufficient to hold an employee guilty and that proof must be beyond all reasonable doubt as in criminal cases. The principle laid down in the authority it with reference to the provision of Representation of People Act. The charge against the candidate was that he had indulged in corrupt practice. The charge was thus quasi-criminal in nature. Taking into account the facts and circumstances of the case coming under the purview of the Representation of the People Act, it has been laid down that the proof required should be beyond reasonable doubt. The nature of the test in examining the point of perversity has been set out at the commencement of the discussion. This is not a Tribunal which sits in judgement on the findings of the Enquiry Officer, as if a court of appeal. The only test is to see whether any reasonable person could have arrived at the finding complained of, in the context of the evidence placed on record. I have examined the evidence in great detail and I find that any reasonable person could have arrived at a finding which the Enquiry Officer has recorded.

32. The charge against the I party employee is that he has committed an act of misconduct punishable under Clause 19.5(j). The said clause reads that doing any act prejudicial to the interests of the bank of gross negligence or negligence involving or likely to involve the bank in serious loss is an act of misconduct. Preparing debit vouchers and making corresponding entries in the books of accounts of the bank without there being the endorsements or the letters of authorisation of the constituents is certainly an act prejudicial to the interests of the bank and is also an act which is likely to involve the bank in serious loss. Even considering the lone case of Shri Mohamed Hayat of preparing a debit voucher in respect of demand loan account and effecting debit entries is itself sufficient to hold that he is guilty of the misconduct defined in Clause 19.5(j). As it is manifest that the integrity of an employee has become doubtful, there can be no justification in asking the II party bank to vary or reduce the punishment and impose any lesser punishment. In my view, it is not a case calling for exercising of discretion under Section 11-A of the I.D. Act.

33. In the result, an award is passed that the management of State Bank of Mysore, Bangalore was justified in dismissing Shri G. K. Prasanna, Typist-Clerk Jagalur Branch from their services and that he is not entitled to any relief.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

[No. L-12012/182/87-D.II(A)]

का. भा. 91.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धन के सम्बन्ध में निम्नलिखित और उनके कर्मचारों के बीच अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार वस म्यायालय, इरनाकुलम के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार को 19 दिसम्बर, 1988 को प्राप्त हुआ था।

S.O. 91.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Labour Court, Ernakulam as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India (formerly Bank of Cochin Ltd.) and their workmen which was received by the Central Government on the 19th December, 1988.

ANNEXURE

IN THE LABOUR COURT, ERNAKULAM

Wednesday, the 30th day of November, 1988

PRESENT

Shri T. M. Hassan Pillai, B. Sc., B.L., Presiding Officer.

Industrial Dispute No. 74/86 (C)

BETWEEN

The Regional Manager, Regional Office, State Bank of India, Trivandrum.

AND

The workman of the above establishment Shri K. Sankaranarayana Pillai, Kizhekke Kutiyil House, Erezha North, Mavelikkara, Pin-690106.

REPRESENTATIVES:

Shri B. S. Krishnan,

Advocate, Ernakulam.

...For Management.

Shri Asok M. Cheriyan,

Advocate, Ernakulam.

...For Workman.

AWARD

"Whether the action of the Management of State Bank of India (formerly Bank of Cochin Ltd.) in terminating the services of Shri K. Sankaranarayana Pillai, Typist w.e.t. 11-7-83 is justified? If not, to what relief is the workman concerned entitled?" was the issue referred to the Industrial Tribunal, Madras by the Government of India, Ministry of Labour, as per Order No. L-12012/232/85-D.II(A) dated 11-8-86. On the application made by the workman the Central Government transferred the dispute to this Court from the Industrial Tribunal, Madras as per Order No. L-12012/232/85-D.II(A) dated 2nd September, 1986.

2. In the claim statement the workman's case put forth is that he had been working as a Typist in Mavelikkara, Venmony and Trivandrum Branches of the Bank of Cochin Ltd. He was working as Typist in the Mavelikkara Branch from 28-1-75 to 26-4-77 and 1-8-78 to 15-8-78, in Venmony Branch from 17-8-78 to 31-9-79 and in Trivandrum Branch from 6-5-1983 to 11-7-1983. He was working in all those Branches as Typist on the guarantee and assurance given to him by the employer Bank to make him permanent in the employment. He continued in the assignment in good faith. He was not made a permanent employee. The workman sent reminders after reminders to the employer requesting all the while for his absorption as a permanent employee. Several appointments subsequent to his final retrenchment have been made in the post of Typist without regarding his experience and service rendered in the Bank and overlooking his just claim. The reason for the partiality is only known to employer Bank. The employer Bank wanted a confidential report which also has been submitted and the employer was satisfied about his work. The last representation made by him in person was on 4-5-1983. After perusing the original relevant documents the employer had no hesitation to give him an instant order to appear at the Trivandrum Branch to take charge as Typist there. He reported for duty and was smoothly proceeding with the work. After two months the Manager retrenched him on the basis of the telegraphic message from the Head Office at Ernakulam. Termination of his service was arbitrary. He had been waiting for further instruction on the strength and assurance of the Management both "in the out set and thereafter". He is eligible to be reinstated in the job. Employer appointed fresh hands without providing the workman an opportunity to offer himself for employment and has committed violation of Sec. 25-H of the I.D. Act. He is legally entitled to be reinstated as if he was continuously working more than 240 days in a block of 12 months based on the Supreme Court judgement dated 16th January, 1976 in Civil Appeal Nos. MDS. 933 and 934 of 1975. It is further averred in the claim statement that the workman is entitled to the following benefits:—

(a) Reinstatement in the service of the Bank as a permanent employee.

(c) Seniority in service for the period of my temporary have been admissible upto the date of reinstatement, from the date of termination.

(c) Seniority in service for the period of my temporary services and from the period of termination to the date of reinstatement.

(d) All other attendant benefits as entitled to permanent employees viz., accumulation of leave, medical aid, LFC and arrears of bonus etc.,.

3. The Management resisted the claim for reinstatement in its written statement and it contended as follows:—

The State Bank of India is the successor in interest of the Bank of Cochin Ltd., by operation of the Scheme of amalgamation. Sankaranarayana Pillai was engaged as a Typist in the casual vacancy which arose in Mavelikkara, Venmony and Trivandrum Branches of the Bank of Cochin Limited during various periods. In the Mavelikkara Branch he was engaged as a Typist for various periods from 28-1-75 to 29-9-1979 on three occasions and the total period he worked in that Branch was 162 days. In Venmony Branch during the year 1980 he was engaged on five occasions. In the Trivandrum Branch also he was engaged on one occasion. At no point of time he was engaged for 240 days. Even according to him from 1975 to 1983 he was engaged only for a total period of 6 months and 6 days. He was never a permanent employee of the Bank. He was engaged whenever a Typist proceeds on leave or there was a leave vacancy of a permanent employee of the Bank. That does not create a claim for employment in the Bank. In a block of 12 months he was never engaged for 240 days or more. Sundarmony's case has no application to the facts of this case. Sankaranarayana Pillai is not entitled for reinstatement or for any other relief with or without back wages. He has no claim of employment under the present Management. He was only occasionally engaged in leave vacancies. He cannot claim engagement under the Management as a matter of right. He is not entitled to any of the benefits claimed in the claim statement.

4. As stated earlier the issue referred for adjudication is justifiability of the termination of service of Shri Sankaranarayana Pillai and the question of reinstatement of him arises only if he was retrenched without complying with the provisions of the I.D. Act (The case of the workman is that he was retrenched while working as typist in the Trivandrum Branch on 11-7-83). There is no case for the workman pleaded or proved that he was a permanent employee under the Cochin Bank. It is evident from his own testimony given before this court as WW1 that he was engaged as casual labourer (typist) and daily wage was given to him for the work done by him. From his case pleaded in the claim statement it is evident that he was not working continuously without any break in service from 28-1-75 till 11-7-83. It is clear from para 1 in the claim statement that his case is that he was not working as Typist under the Cochin Bank during the period 1-10-79 to 6-5-83. In Ext. M1 representation made by the workman to the Chairman, Bank of Cochin Limited he has stated that he worked as Typist from 1-3-1980 to 4-3-1980 and from 15-3-1980 to 21-3-1980 in the Venmony Branch. I may point out here that no such case is put forth in the claim statement. Even if I proceed on the basis that he worked as typist in the Venmony Branch during that period as asserted by him in Ext. M1, it is evident from Ext. M1 and the claim statement filed by him that he had not worked for 240 days in the year 1983, 1982, 1981, 1980, 1979 and 1978. In Ext. M3 representation made by the workman to the Chairman, Bank of Cochin it is stated that he was working from 28-1-75 to 26-4-77 as Peon in the Mavelikkara Branch. So it is clear from Ext. M3 representation that the period shown in Ext. M1, viz., 28-1-75 to 26-4-77 as worked in the Mavelikkara Branch is the period he worked as Peon and not as Typist, (even if I accept that what is stated by him in Exts M1 and M3 that he worked in the Mavelikkara Branch during the period 28-1-75 to 26-4-77 is true.) In Ext. M2 representation made by him to the Chairman, Cochin Bank also he has stated that he worked from 28-1-75 to 26-4-77 as Peon in the Mavelikkara Branch. So his own representations Exts. M2 and M3 falsified his assertion that from the box during that period he worked not as Peon but as Typist. Even if I accept his case on that it cannot be said that after accepting employment as Typist in the Mavelikkara Branch he worked as

typist for 240 days in any one year preceeding his retrenchment from Trivandrum Branch. He was retrenched while working as typist in the Trivandrum Branch and no case is specifically pleaded by him that his termination of Service while working as Typist in the Trivandrum Branch was in contravention of Sec. 25F of the I.D. Act. No such argument was also addressed to this Court by the Counsel for workman. He is not entitled to notice or one month's wage in lieu of notice and wages at the rate of 15 days for every completed year of service as Typist. The reason for holding, so is that he has not worked as Typist for 240 days in any year. As he was a casual employee working on daily wage and he had not worked 240 days in any year as Typist we cannot say that retrenchment of him on 11-7-1983 was illegal. From the documentary evidence produced on the Bank's side it is evident that WW1 had not worked 240 days in any one year (even in the years 1975, 1976 and 1977) preceeding the date of his retrenchment from Trivandrum Branch. Documentary evidence produced are Exts. M4 to M8 (Day books maintained in the Bank).

5. There is no case for WW1 that Typist appointed while he was in service were allowed to continue in service at the time of retrenching him from Trivandrum Branch and therefore there cannot be any question of violation of Sec. 25G of the I.D. Act. It is evident from the testimony of WW1 that he WW1 was appointed as Typist in the Mavelikkara Branch in leave vacancies. WW2's evidence also shows that WW1 was appointed in the Venmony Branch when the regular hand took leave and WW1 was given daily wages. Those facts are further evident from the fact that WW1 was appointed not continuously either in the Venmony Branch or in Trivandrum Branch or in Mavelikkara Branch. There is no evidence before me to show that at the time of termination of service of WW1 there existed any vacancy of Typist in the Trivandrum Branch or in any other Branches of the Management.

6. Apart from the interested testimony of WW1 there is no acceptable evidence to show that WW1 was appointed by the management on the assurance that he would be absorbed permanently in service. I am not prepared to accept the case of workman built on the edifice Director in charge noted in Ext. M2 representation that "when vacancy arises this could be considered" that workman has right to claim to be absorbed in the Bank's service permanently. There is nothing in Ext. M2 to show that an order has been passed by Director in charge to appoint him (WW1) permanently.

7. The case of the workman is that subsequent to his retrenchment one Jayalakshmy and one Omanakkuttan were employed as casual labourers (typists) and their services thereafter regularised. Even if I accept his case on that aspect as true his case on that aspect need not be considered by this Court on the ground that the issue referred for adjudication is justifiability of the termination of his service and it is not within the province of this Court to decide the question whether the Management has given notice as provided in Sec. 25H of the I.D. Act so as to give an opportunity to the workman to offer for employment. So I need not consider that question. There is no material before me to show that the termination (retrenchment according to the workman) of him from service was not justified. Hence the workman is not entitled to any reliefs claimed and an award is passed accordingly.

T. M. HASSAN PILLAI, Presiding Officer

[No. L-12012/232/85-D.II(A)]

Ernakulam,
30-11-1988.

APPENDIX

Witnesses examined on the Management's side :

MW1 Shri A. I. Joseph.

MW2 Shri K. C. David.

Witness examined on the Workman's side :

WW1 Shri K. Sankaranarayana Pillai.

Exhibits marked on the Management's side :

Ext. M1.—A representation dated 31-10-83 from Sri K. Sankaranarayana Pillai to the Chairman, Bank of Cochin Ltd.

Ext. M1a.—A Statement showing the dates on which the employee worked and wages paid.

Ext. M2.—A representation dated 4-4-83 from Sri K. Sankaranarayana Pillai to the Chairman, Bank of Cochin Ltd.

Ext. M3.— do do dated Nil.

Ext. M4.—Day book of Mavelikkara Branch for the year 1974-75.

Ext. M5.—Day book of Mavelikkara Branch for the year 1975-76.

Ext. M-6.—Day book of Mavelikkara Branch from 1-4-76 to 30-10-76.

Ext. M7.—Day book of Mavelikkara Branch for the year 1976-77.

Ext. M8.—Day book of Venmoney Branch from 13-7-78 to 1981.

का. प्र. 92.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक, पटना के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, संख्या 2 धनबाद के पंचसद की प्रकाशित करती है, जो केन्द्रीय सरकार को 19 दिसम्बर, 1988 को प्राप्त हुआ था।

S.O. 92.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India, Patna and their workmen which was received by the Central Government on the 19th December, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 158 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of State Bank of India, Patna and their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. Lal, Advocate and Shri D. K. Verma, Advocate.

On behalf of the employers—Shri S. K. Ghosh, Advocate

STATE : Bihar

INDUSTRY : Banking

Dhanbad, the 9th December, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L 12012 (106)/85-D.III (A), dated, the 3rd April, 1986.

SCHEDULE

"Whether the action of the management of State Bank of India in terminating the services of Shri Shiv Shankar Tewary, Cashier Bihta Branch with effect from 1-5-1984 is justified? If not, to what relief the workman is entitled?"

The case of the concerned workman Shri Shiv Shankar Tewary (S. S. Tewary) is that he was working as a cashier in Bihta Branch of State Bank of India. He was working there from the year 1969. He was serving the Bank with the best of his ability and efficiency. He was never found lacking in his work or qualification and as such the management did not ever take any disciplinary action against him. He was not required to pass any test in English or simple arithmetic when he was appointed in Bihta Branch of State Bank of India. He had never been informed by the management of the Bank that he was lacking in his working knowledge in English and simple arithmetic. He was never told by the management that his appointment was subject to passing any test in English and simple arithmetic. It was the existing practice of the Bank that an employee like the concerned workman was being confirmed after working in the Bank for certain period and for that no test was required. The Bank terminated the services of the concerned workman with effect from 1-5-84. He had received a notice from the Bank dated 31-3-84 stating therein that the management have decided not to engage him any more in the temporary services with effect from 1-5-84. It was stated in the notice which is as follows :—

"(i) Your failure in written test for absorption of Temporary employees held on 20th January, 1974.

(ii) Avoiding wilfully to appear in the written test for absorption of temporary employees held on 3rd October, 1982 in spite of the fact that you were advised about the test well in advance.

In this connection, arrangements are in hand to pay you the retrenchment compensation in terms of Section 25(F) of the Industrial Dispute Act before the expiry of the notice period."

The concerned workman had received the said notice under protest. He filed a Writ Petition being CWJC 1963/1984 challenging termination of his services by the Bank before the Hon'ble Court, Patna. The Hon'ble Court dismissed the said petition with observation that the remedy may be sought under the provision of the I. D. Act, 1947 vide its order dated 24-4-84. Thereafter the present industrial dispute was raised by the concerned workman and on failure of the conciliation proceeding the Government of India referred the dispute for adjudication to this Tribunal.

Earlier also the management of the Bank terminated the services of the concerned workman in the year 1974 on the plea that he had not passed the written test for absorption of temporary employees held on 20-1-74. The concerned workman had raised industrial dispute for his illegal termination of services and the case had been referred to CGIT No. 1, Dhanbad. The CGIT No. 1, Dhanbad passed an Award in favour of the concerned workmen directing the management to reinstate the concerned workman in Reference No. 10/81 vide its Award dated 23-5-81. Thereafter the concerned workman was reinstated by the Bank on 5-8-81 and was also paid arrears of wages and other dues as per Award passed by the CGIT No. 1, Dhanbad. The concerned workman resumed his duty after the said Award on 5-8-81 and continued to work without any interruption. He went on leave sometime in the month of September, October, 1982 and went home. He fell ill at his village home and while he was at his village home he received a telegram from the Bank that a special test for protected temporary employees would be held on 3-10-82. The concerned workman could not go to attend to his duty and appear in the test examination due to his illness. After recovery from illness the concerned workman resumed his duty on 11-10-82 and continued to work till 31-4-84.

The termination of the services of the concerned workman with effect from 1-5-84 is ab initio void and improper. The concerned workman did not avoid to appear in the written

test which was to be held on 3-10-82. The concerned workman was already on leave and he was duly paid for the said period of leave. The concerned workman was already on leave and he was duly paid for the said period of leave. The ground of wilful avoiding to appear in the test by the concerned workman has been fabricated by the management only to illegally terminate his services. The management had not needed any show cause notice for alleged avoiding wilfully to appear in the written test to be held on 3-10-82. It was never the service condition of the concerned workman to pass any written test to be confirmed or regularised. He has already worked for about 15 years and it is too much to require him to pass any written test in English or simple arithmetic when he was never found incompetent and inefficient in his work. The management is not justified in throwing the concerned workman out of employment after so many years of his service on such flimsy ground. The termination of the services of the concerned workman cannot be considered as valid under Section 25F or under any provision of the I.D. Act. The management did not pay retrenchment compensation as required under the provision of law. On the above plea it is submitted that the termination of services of the concerned workman with effect from 1-5-84 is not justified. It has been prayed that it be held that the termination of the services of the concerned workman with effect from 1-5-84 is not justified and that he should be reinstated with full back wages and other benefits to which he is legally entitled.

The case of the management is that the concerned workman was required to pass test for regularisation in the services of the Bank. In the year 1974 the services of the concerned workman were terminated on the ground that he had not passed the written test for absorption of temporary employees held on 20-1-74. The concerned workman at that point of time raised an industrial dispute which was referred to CGIT No. 1, Dhanbad for adjudication. The CGIT No. 1, Dhanbad by its award dated 23-5-81 held that the termination of the concerned workman from service amounted to retrenchment and as the provision of retrenchment of a workman were not complied with, the Tribunal held that the termination of the services was not proper and he was reinstated with half back wages. The concerned workman thereafter joined his duties on 5-8-81. He was again given notice by Registered letter and telegram, that a special test for protected temporary employees would be held on 3-10-82 but the concerned workman did not appear in the examination and as such he was given notice dated 31-3-84 stating therein that he will not be further engaged in his temporary services from 1-5-84 on the ground that he had failed to appear in the written test, for absorption of temporary employees held on 20-1-74 and that the concerned workman was wilfully avoiding to appear in the written test for absorption of temporary employees held on 3-10-82 in spite of the fact that he was advised about the date of the test in advance. The management therefore terminated the services of the concerned workman treating it as retrenchment under Section 25F of the I.D. Act after making arrangement to pay him the retrenchment compensation as required under Section 25F of the I.D. Act.

The case of the management further is that the concerned workman was working in purely temporary capacity. He had worked for 283 days at Bihta branch of the Bank from 8-12-69 to 29-2-74. After his reinstatement on the basis of the award in reference No. 10/81, he again started working in the same temporary capacity as earlier till the date of his termination dated 1-5-84. At the time of reinstatement in the year 1981 the concerned workman had undertaken to appear in the test to be conducted by the Bank for making him permanent employee but he wilfully against his own commitment and in violation of terms of his contract of service failed to appear in the test and thus forfeited his right to be continued in the services of the Bank. As per his own commitment and as per the terms of the services of the concerned workman and his relevant service rule which is binding on him, he was required to pass the test in English and maths as per requirement for being regularised/permanent in the Bank's services. No employee in the bank can be retained as temporary employee for an indefinite period. The concerned workman was terminated from his service honestly by the management in accordance with law and after complying with all the provisions

of the I.D. Act. On the above plea it has been prayed that the Award be decided in favour of the management.

The points for decision are, (1) whether the termination of the service of the concerned workman with effect from 1-5-84 is justified?, (2) whether the provision of retrenchment under Section 25F of the I.D. Act was complied with prior to the retrenchment of the concerned workman.

The management examined three witnesses and the concerned workman was wilfully avoiding to appear in the case. The management produced documents which have been marked Ext. M-1 to M-15. No document has been marked on behalf of the concerned workman.

It will appear from the case of the parties that the services of the concerned workman was terminated with effect from 1-5-84 on the ground that the concerned workman failed in the written test for absorption of temporary employees held on 20-1-74. The other ground is that the concerned workman was wilfully avoiding to appear in the written test for absorption of temporary employees held on 3-10-82 in spite of the fact that he was advised about the test well in advance. These facts are almost admitted. The concerned workman has stated in para 13 of his written statement that he had received the telegram from the Bank that special test for protected temporary employees would be held on 3-10-82. The management has produced the photo copy of the notice which was sent to the concerned workman regarding the date of the test and the same is marked Ext. M-3 and the photo copy of the postal receipt has also been provided alongwith Ext. M-3. Thus there is no doubt that the concerned workman had been informed in advance about the date of holding of the test on 3-10-82. The case of the concerned workman is that he was not required to appear in the test for being regularised in the service of the Bank. His further case is that as he had fallen ill he was unable to appear in the test examination.

Ext. M-4 dated 23-3-66 is a circular regarding temporary employees which provides that pursuant to the discussions held by the management with the representative of the All India State Bank of India Staff Federation it was decided that all existing temporary employees in clerical and cash department who have put in an aggregate service of 9 months or more should be given opportunity to appear in the written test and interview alongwith the candidates recommended by the Employment Exchange. It further states that if the performance of the temporary employees in the written test and interview reaches an acceptable standard i.e. if they secure minimum qualifying marks in the written test and interview they will be offered permanent appointment in the Bank and in case they fail to secure minimum qualifying marks in the test in which they are permitted to appear, their temporary appointment should be terminated at the expiry of the relative term of appointment and their future. Ext. M-6 dated 17-10-66 is another circular regarding the temporary employees which also shows that temporary employees who have put in more than 9 months of service should be absorbed in the permanent appointment of the Bank only if they possess minimum acceptable standard and for this purpose they are given an opportunity to appear for written test and interview. It was further decided in this connection that an employee who has secured 30 per cent in the written test and 35 per cent in the written test and interview may be deemed to have reached the minimum standard. If the temporary employee has reached the minimum standard he may be deemed to be eligible for permanent appointment in the Bank. On the other hand if he fails should not be considered for any temporary appointment in to come up to the minimum standard his services should be terminated on the expiry of the period of appointment. It further states that these instructions would only apply to temporary employees who had put in an aggregate service of 9 months or more at the time of original instructions issued in March, 1966 and not to all temporary employees in the service of the Bank. It further provided that no candidates should be allowed to continue in temporary employment in any capacity for period aggregating more than 9 months with or without breaks. It will thus appear that the Bank had circular issued in 1966 even prior to the joining of the services of the concerned workman in 1969 that temporary hand in the bank will be regularised/made permanent only if he qualifies in the test for regularisation and in case he

does not succeed his services will be terminated. According to the said circular, therefore the concerned workman had to pass written test for being made permanent in the bank's service. It is therefore not correct to say that the concerned workman was not required to pass any test before being made permanent. I hold therefore that it was necessary for the concerned workman to qualify in the test for being regularised or made permanent in the Bank's services.

The second plea of the concerned workman is that he was unable to appear in the test to be held on 3-10-82, as he was on leave at his village home where he had fallen ill. Admittedly the concerned workman was on leave when he had received the notice of the test to be held on 3-10-82. The management has stated in para 9 of the written statement that the concerned workman had submitted medical certificate on resuming duties after test was over. It appears therefore that the concerned workman had filed a medical certificate regarding his illness and as such the ground of termination of the concerned workman that he was wilfully avoiding to appear in the written statement for absorption of temporary employees held on 30-10-82 does not appear to be sound conclusion arrived at by the management. There is no evidence in the case on the part of the management to show that the concerned workman had wilfully avoided to appear in the test on the contrary it is admitted that the concerned workman had submitted a medical certificate before the management to show that he was ill and as such he could not appear in the test. The said ground of termination of the services of the concerned workman therefore cannot be sustained and cannot be said to be a good ground for termination of the services of the concerned workman.

The other ground in the notice of termination of service of the concerned workman was that he had failed in the written test for absorption of temporary employees held 20-1-74. The said fact has not been denied by the concerned workman. The services of the concerned workman had been terminated because of his failure in the test examination held on 20-1-74 but the said order was not sustained in Ref. No. 10/81 as it was held that the management had not complied with the provision of Section 25F of the I.D. Act. Admittedly the concerned workman had joined after passing of the Award in his favour on 5-8-81 and continued to work smoothly till his services were terminated from 1-5-84. It appears therefore that the management did not contemplate to terminate the services of the concerned workman on the ground that he had failed in the test held on 20-1-74 and therefore the management allowed him to continue in the job. If the management was keen in terminating the services of the concerned workman because of his failure to pass the test held on 20-1-74, the management could have terminated the services of the concerned workman soon after he joined on 5-8-81 after the payment of retrenchment compensation as contemplated in Section 25F of the I.D. Act. The fact that the management allowed the concerned workman to continue in the job till another test examination is held shows that the management did not like to terminate the services of the concerned workman because of his failure to pass the test held on 20-1-74. The termination of the services of the concerned workman on the ground as stated in the notice that as he had failed in the written test for absorption of temporary employees held on 20-1-74 is therefore not justified. In view of the discussions made above I hold that the termination of the services of the concerned workman on the ground stated in the notice Ext. M-12 is not justified.

Point No. 2

The case of the concerned workman is that he was not paid retrenchment compensation as required under the law. Section 25F lays down the conditions precedent to retrenchment of a workman. It provides that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by the employer until (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice is expired, or the workman has been paid in lieu of such notice wages for the period of notice (b) the workman has been paid at the time of retrenchment, compensation which shall be equivalent of 15 days average pay for every completed year of continuous service or any part thereof in excess of 6 months and (c) notice in the prescribed manner is served

on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette. So far the condition (a) of Section 25F is concerned it appears from the notice Ext. M-12 that the management had given notice on 31-3-84 that the services of the concerned workman will be terminated with effect from 1-5-84. The services of the concerned workman has been terminated with effect from 1-5-84 which complies one month's notice in writing indicating the reason for retrenchment and the period of notice had expired and as such I hold that the management had complied clause (a) of Section 25F of the I.D. Act.

The main contention of the concerned workman is that he had not been paid retrenchment compensation in accordance with the provision of Section 25F (b) of the I.D. Act. The management has examined MW-2 who has stated that retrenchment compensation was sent to the concerned workman vide letter Ext. M-1 dated 24-4-84 which was sent under Registered Post. He has stated that the amount was sent vide Bank's cheque in the name of the concerned workman and the photo copy of the said cheque is marked as Ext. M-10 in this case. Ext. M-10 shows that a Banker's cheque of Rs. 4094.42 P. was issued in the name of the concerned workman. Ext. M-9 is a letter dated 24-4-84 addressed to the concerned workman which shows that in terms of the notice dated 31-3-84 of RMI letter No. 21/36 dated 19-8-84 retrenchment compensation in Banker's cheque No. 609154 of Rs. 4094.42P. dated 24-4-84 was being sent to him. Ext. M-11 bears the address of Regd. A/D. letter in the name of the concerned workman and reverse of the envelope contained the name of the peon showing that the Peon did not meet the addressee of the envelope. It is clear therefore that the management had sent a Banker's cheque of Rs. 4094.42 P. to the concerned workman on 24-4-84 which could not be delivered to the concerned workman. It appears that the management did their best in sending a cheque of Rs. 4094.42 as retrenchment compensation to the concerned workman.

The question is whether the said amount of Rs. 4094.42P. was complete payment of the retrenchment compensation as required under clause (b) of Section 25F of the I.D. Act. It provides that at the time of retrenchment the retrenched workman has to be paid compensation which shall be equivalent of 15 days average pay for every completed year of continuous service. The case of the concerned workman is that he was continuously working in Bihta Branch of SBI since 1969 and had worked upto 31-4-84. Thus it would cover about a period for about 15 years. Admittedly the concerned workman as not working from the time his services was terminated on having failed in the written test held on 20-1-74 till he joined on 5-1-81 after the award passed in Ref. No. 8/81. The certified copy of the Award is Ext. M-15 in this case. It is stated towards the conclusion of the said award that on reinstatement the workman will have full benefit of continuity of service on the footing that the services were not terminated on 29-2-74. Thus it will be deemed that the concerned workman had continued in the service of the bank after his termination on 29-2-74 and the said period will also be counted as a period of continuous service of the concerned workman. It has been held in several decisions that when a workman is illegally retrenched from service, on his reinstatement it will be deemed that he continued in service. WW-1 is the concerned workman who has stated that he was getting emolument of Rs. 2200 per month at the time his services were terminated. The management has not produced any evidence to show that the concerned workman was not getting the said emolument. If he reckons Rs. 2200 as salary per month of the concerned workman, 15 years of his continuous service would entitle the concerned workman of the retrenchment compensation of Rs. 16,500 (1/2 of Rs. 2200 per month \times 15 = Rs. 16,500). It may be that the above figure is not fully correct but from the evidence it has not been rebutted. It appears that the amount of retrenchment compensation would come near about the same amount which will be more than Rs. 4094.42 P. The amount was offered to the concerned workman by cheque towards the retrenchment compensation. It will be open to the management to make the correct calculation regarding the amount of retrenchment compensation to be paid to the concerned workman considering the exact amount of emoluments being paid to the to the concerned workman at the time of his retrenchment.

However, the conclusion is that the management did not comply clause (b) of Section 25(F) of the I.D. Act in as much as the management had offered less amount of retrenchment compensation arbitrarily without explaining as to how the said amount was calculated. The result is that as the provision of clause (b) of Section 25F has not been complied with, the termination of the services of the concerned workman cannot be held to be justified and it will be deemed that the concerned workman continued in the service of the Bank from the alleged date of termination of his services and the concerned workman will be entitled to all his back wages.

It appears that the concerned workman cannot be regularised in the service of the Bank without passing the test for his regularisation. The concerned workman has been in the services of the management for about 15 years and he could not appear in the last test held on 3-10-82 because of his illness and as such the management after allowing the concerned workman to join the services of the Bank will make arrangement for holding test of the concerned workman and if he is found to have qualified in the test he may be regularised but in case after giving chance to the concerned workman to appear in the test does not qualify the management will be at liberty to retrench the concerned workman after fully complying with the provision of Section 25F of the I.D. Act.

In the result, I hold that the action of the management of State Bank of India in terminating the services of the concerned workman Shri S. S. Tewary Cashier, Bihta Branch with effect from 1-5-84 is not justified. The management is therefore directed to allow the concerned workman to join his duties within one month from the date of publication of the Award with back wages and other benefits available to him from 1-3-84.

This is my Award.

I. N. SINHA, Presiding Officer

[No. L-12012/106/85-D.III(A)]

P. V. SREEDHARAN, Desk Officer

नई दिल्ली, 29 दिसम्बर, 1988

का. प्रा. 93.—चूनापत्थर और डोलोमाइट खान श्रम कल्याण निधि नियमावली, 1973 के नियम 3 के उपनियम (2) के साथ पठित चूनापत्थर और डोलोमाइट खान श्रम कल्याण निधि, 1972 (1972 का 62) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार टाटा कैमिकल्स लि., मीथापुर जिला, जामनगर के सामग्री प्रबंधक श्री आर. एन. कौल को गुजरात राज्य के लिए चूना पत्थर और डोलोमाइट खान श्रम निधि की सहायकार समिति के सदस्य के रूप में नियुक्ति करती है और दिनांक 30 अक्टूबर, 1982 के भारत के राजपत्र, भाग-II खंड 3 उपखंड (ii) में प्रकाशित भारत सरकार के श्रम मंत्रालय को दिनांक 15 अक्टूबर, 1982 की अधिसूचना संख्या का. प्रा. 3686 का संशोधन करती है।

उक्त अधिसूचना में, क्रमांक 5 के साथ आई प्रविष्टि निम्नावुसार प्रतिस्थापित की जाएगी, अर्थात्:—

“5. श्री आर. एन. कौल, नियोजकों के प्रतिनिधि
सामग्री प्रबंधक, टाटा
कैमिकल्स लि., मीथापुर,
जिला जामनगर”

[संख्या—यू 19012/58/5—इज्यू II(सी)]

टिप्पणी:—युक्त अधिसूचना भारत के राजपत्र, भाग-II खंड 3(ii) दिनांक 30-10-82 के सहित प्रकाशित हुई थी और उसे का. प्रा. 3395 दिनांक 25-11-87 द्वारा संशोधित किया गया था और भारत के राजपत्र भाग-II खंड 3(ii) दिनांक 5-12-87 में प्रकाशित की गई थी।

New Delhi, the 29th December, 1988

S.O. 93.—In exercise of the powers conferred by Section 6 of the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972 (62 of 1972) read with sub-rule (2) of rule 3 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973, the Central Government hereby appoints Shri R. L. Kaul, Material Manager, Tata Chemicals Ltd., Mithapur, District Jamnagar as a member of the Advisory Committee for limestone and Dolomite Mines Labour Welfare Fund for the State of Gujarat and amends the Notification of the Government of India in the Ministry of Labour No. S.O. 3686 dated the 15th October, 1982 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 30th October, 1982;

In the said notification, for S. No. 5 and entry relating thereto, the following shall be substituted, namely:—

“5. Shri R. L. Kaul, ...Employers'
Material Manager, Representative.
Tata Chemicals Ltd.,
Mithapur,
District Jamnagar.”

[No. U-19012/5/85-W.II(C)]

Note : The principal notification was published vide Gazette of India, Part II, Sec. 3(ii) dated 30-10-1982 and the same was amended by S.O. 3395 dated 25-11-1987 and published in the Gazette of India, Part II, Sec. 3(ii) dated 5-12-1987.

नई दिल्ली, 30 दिसम्बर, 1988

का. प्रा. 94.—बीड़ी कर्मकार कल्याण निधि नियमावली, 1978 के नियम 3 के उप नियम (2) के साथ पठित बीड़ी कर्मकार कल्याण निधि अधिनियम, 1976 (1976 का 62) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निम्नलिखित व्यक्तियों को मध्य प्रदेश राज्य के लिए बीड़ी कर्मकार कल्याण निधि की सहायकार समिति के सदस्य के रूप में नियुक्त करती है, अर्थात्:—

1. श्रीमती मालती मोघे,
विधान सभा सदस्य,
सागर।
2. श्री भरविन्द भाई पटेल,
सागर
3. श्री बेचर भाऊ पटेल,
सदल इंडिया टोबाको के. जबलपुर
4. श्री पी. एन. तेलंग,
10, मालवीय नगर,
भोपाल
5. श्री मली जया बेन
विधान सभा सदस्य।

और भारत के राजपत्र, भाग-II, खंड 3, उप खंड (ii) दिनांक 10 नवम्बर, 1984 में प्रकाशित भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. प्रा. 3581 दिनांक 20 अक्टूबर, 1984 को संशोधित करती है।

उक्त अधिसूचना में क्रम संख्या 4, 5, 6, 8 तथा 9 और उनसे संबंधित प्रविष्टियां क्रमशः निम्नानुसार प्रतिस्थापित की जाएंगी, अर्थात्:—

- | | |
|-----------------------------|-----------------------|
| “4. श्रीमती मालती मौर्य, | —सदस्य |
| विधान सभा सदस्य, सागर | |
| 5. श्री अरविन्द भाई पटेल, | |
| सागर, | नियोजकों के प्रतिनिधि |
| 6. श्री बेचर भाऊ पटेल, | नियोजकों के प्रतिनिधि |
| सेन्ट्रल इंडिया टोबाको कं., | |
| जबलपुर | |
| 8. श्री पी. एन. तेलंग, | कर्मचारी प्रतिनिधि |
| 10. मालवीय नगर, | |
| भोपाल। | |
| 9. श्री मती जया बेन, | महिला प्रतिनिधि |
| विधान सभा सदस्य। | |

[सं. नु. 19012/1/अस्यू II-सी]

शशि भूषण, धर सचिव

S.O. 94.—In exercise of the powers conferred by section 5 of the Beedi Workers Welfare Fund Act, 1976 (62 of 1976) read with sub-rule (2) of rule 3 of the Beedi Workers Welfare Fund Rules, 1978, the Central Government hereby appoints the following persons, as members of the Advisory Committee for Beedi Workers Welfare Fund for the State of Madhya Pradesh, namely —

1. Smt. Malti Maurya,
M.L.A.,
Sagar.
2. Shri Arvind Bhai Patel,
Sagar.
3. Shri Becharbhau Patel,
Central India Tobacco Co.
Jabalpur.
4. Shri P. N. Telang,
10, Malviya Nagar,
Bhopal.
5. Smt. Jaya Behn,
M.L.A.

and hereby amends the notification of the Government of India in the Ministry of Labour No. S.O. 3581 dated the 20th October, 1984 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 10th November, 1984;

In the said notification for serial Nos. 4, 5, 6, 8 and 9 and the entries relating thereto, the following shall respectively be substituted, namely —

- | | |
|----------------------------|------------------|
| 4. Smt. Malti Maurya, | Member |
| M.L.A., | |
| Sagar. | |
| 5. Shri Arvind Bhai Patel, | Employers' |
| Sagar. | Representatives. |
| 6. Shri Becharbhau Patel, | |
| Central India Tobacco Co., | |
| Jabalpur. | |
| 8. Shri P.N. Telang, | Employees' |
| 10. Malviya Nagar, | Representative. |
| Bhopal. | |
| 9. Smt. Jaya Behn, | Women |
| M.L.A. | Representative. |

[No. U-19012/1/87-W.II(C)]

SHASHI BHUSHAN, Under Secy.

नई दिल्ली, 30 दिसम्बर, 1988

सा. मा. 95.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने स. इरियन आयरन एंड स्टील कम्पनी लि. की जितपुर कोलियरी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक आधिकारण (स. 2) धनबाद के पंचपट को प्रकाशित करती है।

New Delhi the 30th December, 1988

S.O. 95.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Jitpur Colliery of M/s. Indian Iron and Steel Company limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 173 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of Jitpur Colliery of Messrs. Indian Iron and Steel Company Limited and their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. Joshi, Advocate.

On behalf of the employers—Shri R. S. Murthy, Advocate

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 13th December, 1988

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(314)/86-D.III(A), dated 30th June, 1987.

SCHEDULE

“Whether the action of the management of Jitpur Colliery of M/s. Indian Iron & Steel Co. Ltd. Dhanbad in dismissing their workman, Shri C. P. Singh, P. No. 1863 with effect from 28-7-1981 is justified and legal? If not, to what relief is the concerned workman entitled?”

The case of the workmen is that the concerned workman Shri C. P. Singh was working as Permanent Fitter in Jitpur Colliery of M/s. IISCO. He went to his village on the basis of sanctioned leave from 6-8-80. He fell ill in his village home. The nature of his illness could not be detected for sometime although certain abnormalities developed leading to mental illness. He remained under the treatment of Dr. B. N. Chakravarty, Mental Specialist and General Physician of Kanke Mental Hospital from 7-11-80 to 10-4-86. He was declared medically fit to resume his original duty by the doctor on 10-4-86. He reported to his duties after his recovery from the mental trouble on 16-4-86 and filed an application enclosing medical certificate dated 10-4-86 praying to allow him to resume his duties. He was informed that he had been dismissed from his service in July, 1981 on the allegation of misconduct committed by him on the ground of unauthorised absence after the expiry of the period of leave granted to him from 6-8-80 for a period of 10 days. On the above ground he was not allowed to resume his duties. The concerned workman by his letter dated 20-8-80 and 15-1-81 intimated the management about his sickness and requested for extension of his leave on account of sickness till he recovered. The management did not send him any letter either confirming or rejecting his leave application and as

such it was presumed that the leave prayed for by the concerned workman for extension of his leave had been sanctioned. The concerned workman had overstayed his leave on account of his sickness and mental trouble which had made him incapable of informing the management regarding his sickness. It was submitted that the misconduct always means violational act on the part of the workman unless it is established that the concerned workman deliberately absented from his duties although he was capable of attending his duties, he cannot be charged for commission of misconduct of unauthorised absent without satisfactory cause. As the concerned workman had absented from his duties being unable to perform his duties on account of sickness he did not commit and misconduct and therefore action of the management in dismissing him from service is illegal and unjustified. The management did not hold any enquiry into the charge of misconduct in accordance with the principles of natural justice and dismissed the concerned workman on the basis of fabricated papers. On the above plea it has been prayed that the order of his dismissal be set aside and the concerned workman be reinstated with full back wages and other benefits from the date of his dismissal.

The case of the management is that the reference is bad in law and not maintainable. The present reference and the purported dispute raised by the sponsoring union are over-stale. The said over stale dispute should be rejected out right.

The concerned workman is a literate person. He proceeded on sanctioned leave for 10 days with effect from 6-8-1980 but failed to resume his duty after expiry of the said sanctioned leave. The concerned workman did not send any application for extension of leave or gave any information to the management regarding the reason of his unauthorised absence from duty. The management waited for the return of the concerned workman for nearly 4 months. Thereafter the management sent a letter dated 4-12-1980 to the concerned workman informing him that his failure to resume duty after the expiry of the leave sanctioned to him and his overstay of sanctioned leave constituted misconduct under the Certified Standing Orders of Noonidih Jitpur Colliery. He was also advised to report for duty within 72 hours and to show cause as to why disciplinary action should not be taken against him for the aforesaid misconduct. The said letter was sent to the concerned workman by Regd. Post by his village address (village Barkagaon, P. O. Barkagaon, Distt. Muzaffarur) a copy of the said letter was also displayed on the notice board of the colliery. Under the certified standing orders of Noonidih Jitpur Colliery, continuous absence of a workman from duty for more than 10 days without permission and without satisfactory cause is a misconduct for which a workman could be dismissed from service. When there was no response from the concerned workman even to the letter dated 4-12-1980 a charge-sheet was issued to him dated 5-1-1981 which was also sent to the concerned workman by Regd. Post at his home address and a copy of the same was displayed on the notice board of the colliery. When the concerned workman did not reply to the chargesheet the management decided to order a detaild enquiry into the charges framed against the concerned workman. Shri R. Mohan the then Asstt. Personnel Manager was appointed as enquiry Officer. A notice of the enquiry fixed for 18-5-1981 was sent to the concerned workman by Regd. Post dated 27-4-1981. The concerned workman neither acknowledge letter nor turned up in the enquiry fixed on 18-5-1980. The enquiry officer held the enquiry ex parte. The management examined witness in the ex parte enquiry on 18-5-1981 and thereafter the enquiry was closed. The enquiry officer submitted his enquiry report holding the charges to have been established against the concerned workman. The enquiry report and the enquiry proceeding and other connected papers were considered by the management and it was decided to dismiss the concerned workman from service. Accordingly the concerned workman was dismissed from service vide letter dated 28-7-1981. The action of the management in dismissing the concerned workman from service is fully justified. After the dismissal of the concerned workman, the management did not hear about him till 21-4-1986 when the management received a letter from the concerned workman. In the said letter the concerned workman had admitted the receipt of chargesheet dated 5-8-1981 and the order of dismissal dated 7-8-1981. According to the management the concerned workman was neither

sick nor was he justified in absenting from duty. The management has an elaborately equipped hospital and dispensaries. Had the concerned workman been genuinely sick there was no reason as to why he would not have turned up in the hospital of the management for his treatment where the treatment is provided free of cost. On the above facts it has been submitted on behalf of the management that the action of the management was justified and that the concerned workman is entitled to no relief.

The management had earlier submitted that as the concerned workman was dismissed from service after holding domestic enquiry into the charges of misconduct levelled against him and as such it may first be decided as a preliminary point whether the domestic enquiry was fair, proper and in accordance with the principles of natural justice. So that in case the enquiry is held to be not proper the management may be given a chance to adduce evidence before this Tribunal to establish the charge against the concerned workman. Accordingly the Tribunal first heard the preliminary issue and decided by its order dated 22-7-1988 that the domestic enquiry held into the charges against the concerned workman was fair, proper and in accordance with the principles of natural justice. Accordingly the management was allowed to adduce evidence afresh before this Tribunal to establish the charge of misconduct against the concerned workman.

Now, the point from decision is whether the charge of misconduct against the concerned workman has been established and whether the management was justified in dismissing the concerned workman from service with effect from 28-1-1981.

The management examined two witnesses in all before me in this reference out of whom MW-1 Shri R. Mohan was the enquiry officer. The workman examined the concerned workman Shri C. P. Singh as WW-1. The management also produced the document relating to the charge in the enquiry proceeding and the same are marked Ext. M-1 to M-14 in this case. The workman have produced two documents which are marked Ext. W-1 and W-2 series.

It is the admitted case of the parties as that the concerned workman had gone on sanctioned leave with effect from 6-8-1980 for a period of 10 days and that the concerned workman had not sent any application for extension of leave prior to the expiry of the sanctioned leave. The case of the workman is that he was suffering from mental ailment and as such he absented but he had sent letters to the management dated 20-8-1980 and 15-8-1981 praying for extension of leave on the ground of his sickness till his recovery. The case of the management, on the other hand is that the concerned workman absented after the expiry of his leave and neither informed the management nor filed any petition for extension of leave on the ground of mental ailment or on any other ground. According to the management the concerned workman absented without any information to the management till 21-4-1986. When the management received a letter from the concerned workman in which it was stated that he could not join his duties after expiry of 10 days leave due to mental disturbance and that he was under the treatment of a doctor. The question therefore is whether the concerned workman had written any letter to the management for extension of his leave on the ground of his mental disease. It appears even from the case of the workman that first letter written by the concerned workman before the management for leave was dated 20-8-1980. As stated above the concerned workman had proceeded on leave on 6-8-1980 for a period of 10 days and as such the concerned workman was to join his duties on 16-8-1980. The concerned workman had not sent any letter to the management for extension of his leave prior to the expiry of his leave. What appears from the written statement of the workman is that the first letter was written by the concerned workman for grant of leave on 20-8-1980 which was some days after the expiry of the sanctioned leave. Now let us turn up to the consideration of the fact whether the concerned workman had in fact written any letter to the management on 20-8-1980 and 15-8-1981 for grant of leave.

WW-1 C.P. Singh is the concerned workman who has stated that he went to his village home after sanctioned leave from 6-8-80 for 10 days and he fell sick and did not join his

duty after the expiry of 10 days leave. He has stated that he had applied for extension of leave on medical ground and sent letter for extension of leave under certificate of posting. He has further stated that he did not recover and his illness continued and aggravated and thereafter he was shifted to Kanke Mental Hospital for the treatment of his mental illness and he was treated by Dr. B. N. Chakravorty, a Retired Doctor of Kanke Mental Hospital, who granted him certificate Ext. W-1. He has also certificate of posting of the letters dated 20-8-80 and 15-8-81 and those certificates of posting are marked Ext. W-2 and W-2/1. He has himself stated that he did not possess the copy of the application which he had sent to the management for extension of his leave under certificate of posting. In cross-examination he has stated that he does not remember the number of days for which he had prayed for extension of leave. He has stated that he had sent the application for extension of his leave from his village which was rather posted in Barkagaon Post Office. He has stated that he did not send any medical certificate along with his application for extension of leave dated 20-8-81 as at that time he was under the treatment of village Baidya. He has stated that he does not possess any certificate or prescription of the village Baidya. He has stated that the second petition for extension of his leave sent by him on 15-10-81 was accompanied by Medical certificate but he did not keep any copy of the said application for leave and the medical certificate. He has stated that the address on the certificate of posting Ext. W-2 and W-2/1 is not in his writing and the same was written by the Postal Staff. He has himself admitted that both the certificate of posting Ext. W-2 and W-2/1 are in same writing and are in the same ink. He has also stated that he did not send any reminder to the management whether his extension of leave prayed in the petition was allowed or not. He has stated that he did not file certificate of posting Ext. W-2 and W-2/1 before the Conciliation Officer. Towards the end of his evidence WW-1 has stated that there is no stamp of Barkagaon Post Office in Ext. W-2 and W-2/1. On perusal of the certificate of posting Ext. W-2 and W-2/1 it will appear that there is postal stamp of "Temporary Post Office". PE-1254 dated 20-8-80 and 15-8-81 and as admitted both these exhibits are in the same hand writing and are in the same pen. There is nothing on these exhibits to show that any letter from the concerned workman had been written from his village home. According to the evidence of WW-1 it has been stated that the applications were dropped in Barkagaon Post Office but Ext. W-2 and W-2/1 do not bear the postal stamp of Barkagaon Post Office. Moreover there is nothing on the record to show that these certificate of posting were in respect of any application sent by the concerned workman for grant of leave on the ground of his mental trouble. The concerned workman was so careful to maintain certificate of posting but it strange that he did not maintain any copy of the application of leave alleged to have been sent by him. It is nowhere stated by the concerned workman about the period for which he had prayed for leave in his two applications. Admittedly the concerned workman had sent only two applications and it could not be expected that by filing a petition he would be granted leave for a period of 5 years or more. The concerned workman has not examined any witness to show that he had in fact sent any application to the management for grant of application. MW-2 Shyamdeo Modi is working as Leave and Train fare clerk in Noonidih Jitpur Colliery. He has stated that the concerned workman had taken leave from 6-8-80 for 10 days but the concerned workman did not return to his duty after the expiry of the LTC leave. He has stated that if a workman proceeds on sanctioned leave, he is also to send application if he extends his leave. He has stated that a register is maintained in respect of all the applications for extension of leave and he has filed the registered of extension of leave of Jitpur Colliery for the years 1980 and 1981 which are marked Ext. M-14 and M-14/1. He has stated that no application of the concerned workman for extension of leave was received and if the concerned workman had applied for extension of leave the same must have been entered in Ext. M-14 or Ext. M-14/1. Except for the bare statement of the concerned workman there is no reliable document or even any oral evidence in support of the fact that the concerned workman had applied for leave for the period after his sanctioned leave expired. The certificate of posting Ext. W-2 and W-2/1 do not appear to be at all reliable in view of the facts stated above. It appears that they were obtained sometime after reference was made to this Tribunal otherwise if Ext.

W-2 and W-2/1 were genuine document they must have been produced before the ALCC(C) at the time of conciliation proceeding, which admittedly was not filed. For all the above reasons discussed above I hold that the concerned workman had not applied for any extension of leave after the expiry of his 10 days sanctioned leave from 6-8-80.

Admittedly the concerned workman had absented after Sanctioned leave. Ext. M-1 is the photo copy of the Standing Orders of the colliery. Clause 27(16) of the Standing Orders of Ext. M-1 provides that continuous absence without permission and without satisfactory cause for more than 10 days is a misconduct for which the concerned workman has been charged vide the chargesheet Ext. M-5. As the concerned workman had absented continuously without permission it is for the concerned workman to establish the satisfactory cause due to which it was not possible for him to attend to his duties and as to why he did not apply for leave. The concerned workman WW-1 stated that when he went to his village home he fell sick and was first under the treatment of a village Vaidya and he went to Ranchi for mental treatment on 7-11-80. In support of the case he has filed a medical certificate Ext. W-1 dated 10-4-86. It is a certificate purported to be of Dr. B. N. Chakravorty, Retired Medical Officer of Kanke Mental Hospital. He has certified that the concerned workman was suffering from mental illness and was under his treatment from 7-11-80 to 10-4-86 and that the concerned workman was quite fit to resume his normal duties. The said medical officer has not been examined in this case and has not come to state that the concerned workman was in fact under his private treatment from 7-11-80 to 10-4-86. The medical certificate Ext. W-1 without the evidence of the doctor who had granted his certificate is of no importance and has no evidentiary value. Due to the non production of the doctor for his evidence we are deprived of the advantage of the testing whether the certificate Ext. W-1 was true and whether the concerned workman was in fact suffering from mental disease. The concerned workman WW-1 has clearly stated that he does not possess any prescription or cash Memo to show that the doctor had prescribed him any medicine or that he had purchased any medicine for the treatment of his mental disease. Truth of the fact stated by a witness has to be adjudged on surrounding circumstances and supporting evidence. In the present case not a single witness has turned even to say that the concerned workman was having any mental disorder and that he was under the treatment of any doctor of Ranchi. The concerned workman also did not produced any prescription or Cash Memo in support of the fact that the doctor had issued a prescription of his treatment and that the concerned workman had purchased those medicines. Considering the entire evidence it will appear that there is absolutely no reliable evidence to establish that the concerned workman was suffering from any mental disease and that he was being treated by a retired medical doctor of Ranchi Mental Hospital. Even if it be taken that the concerned workman was suffering from mental disease, it is expected that his family members would have informed the management regarding his continued mental disorder which according to the workmen appear to have continued for a sufficiently long period. In view of the evidence discussed above I hold that the concerned workman has failed to establish that he was suffering from mental disease and that he was under the treatment of any retired doctor Kanke Mental Hospital.

In view of the discussions made above I hold that the charge of misconduct against the concerned workman under clause 27(16) of the Standing Orders of the colliery has been established and the management was justified in dismissing the concerned workman from service for the misconduct of his unauthorised absence for a very long period.

In the result, I hold that the action of the management of Jitpur Colliery of M/s. Indian Iron and Steel Co. Ltd., Dhanbad in dismissing the concerned workman Shri O. P. Singh with effect from 28-7-81 is justified and legal. Accordingly the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer.
[No. L-20012/314/86-D. III(A)] (R Coal T)]

का.घा.96.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सैमसे भवन कोयला कोल लि., का खान कुसुन्दा, कोयला के प्रबन्धन, से सम्बन्धित निषेधका और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (स. 2 धनबाद, के पंचाट प्रकाशित करती है।

S.O. 96.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Reference No. 216 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen:—Shri J. D. Lal, Advocate.

On behalf of the employers:—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 5th December, 1988

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. I-20012(c)/86-D.III(A), dated, the 2nd April, 1986.

SCHEDULE

"Whether the action of the management of M/s. Bharat Coking Coal Limited, Koyla Bhavan, Dhanbad in withdrawing promotion as Foreman Incharge in respect of Shri Suresh Prasad Singh and modifying the effect of his promotion to 13-11-1982 is justified? If not, to what relief the workman is entitled?"

The case of the workmen is that the concerned workman Shri Suresh Pd. Singh was appointed as Foreman trainee by M/s. BCCL and he joined his training with effect from 10-3-75. At the time of his appointment the period of training was for a duration of 2 years which was subsequently reduced to a period of one year only vide office Order dated 5-10-77. An Office order dated 30-11-77 was issued in respect of the concerned workman whereby his date of absorption was notionally made effective from the date after one year of his representing at CJ Area as Foreman trainee. Since the concerned workman had joined as Foreman trainee on 10-3-75 he was deemed to have been absorbed as Foreman with effect from 10-3-76 in accordance with the office order dated 30-11-77. The concerned workman was promoted to the post of Foreman Incharge vide office order dated 17/19-12-79 according to the norms laid down by BCCL through properly constituted D.P.C. After a lapse of about 6 years an office under dated 24-4-85 was issued cancelling the earlier promotion of the concerned workman from 17-12-79 and making it effective from 13-11-82. It was further ordered by the said office order that excess wages for the period would be deducted. The management did not comply with the elementary principles of natural justice in as much as they

did not issue any show cause notice to him before cancelling earlier promotion order and changing the date of his promotion to 13-11-82. The concerned workman was absorbed/appointed as Foreman with effect from 10-6-79 vide appointment letter dated 4-6-77 according to the terms of the appointment letter in respect of Foreman Trainee when he had completed 2 years of satisfactory training period as Foreman trainee. The management of Sadamdih Area should have absorbed the concerned workman as Foreman with retrospective effect from 10-3-77 when he completed 2 years of training as Foreman trainee but due to oversight the absorption was given effect from 10-6-76 i.e. from the date of issue of his appointment letter. The workmen deny that his training period was extended by one year or upto 10-6-77. No such letter of extension of his training period because of unsatisfactory performance was ever made to the concerned workman and no such plea had been taken by the management during the conciliation proceeding. The concerned workman had given his bio-data according to the office order dated 30-11-77 at the time of his case was to be considered for promotion from the post of Foreman to Foreman Incharge. The concerned workman after completion of his training as Foreman was posted in Hurrallidih Project. Thereafter he was promoted to the post of Foreman Incharge by the D.P.C. with effect from 19-12-79 and thereafter he was transferred to Putki Bahari Project in 1981 where he is working as Foreman Incharge. The concerned workman made his representation on 28-5-88 against the order changing the date of his promotion arbitrarily in violation of the principles of natural justice to the management of BCCL but no reply was received.

The concerned workman is a Foreman Incharge in Technical Grade-A as per NCWA-I, II and III and his duties are technical in nature. He is mainly technical hand and his duty is mainly of technical nature. The Engineer or the Asst. Colliery Manager exercises supervisory duty in a mine in respect of all technical and non-technical staff including Foreman Incharge and Foreman, Mining Sirdar etc. A Foreman Incharge works under the Asst. Engineer or Engineer concerned. A Foreman Incharge does not exercise any supervisory duties. A Foreman Incharge is a workman under Section 2(s) of the I.D. Act. On the above plea it has been prayed that the action of the management of BCCL in withdrawing promotion of the concerned workman as Foreman Incharge and modifying the effect of his promotion to 13-11-82 is unjustified and illegal. It is further prayed that the management be ordered to restore the promotion of the concerned workman as Foreman Incharge with effect from 17-12-79.

The case of the management is that the concerned workman is working as Foreman Incharge in Supervisory grade-A drawing wages of more than Rs. 1600 per month. His main and substantial duties are supervisory in nature exercising control over the subordinate supervisors like Foreman and Asst. Foreman and over all the skilled and unskill manual and technical workmen under his charge. As the concerned person performs the duties of management, control and supervision and is in the highest rank amongst the supervisors drawing wages of more than Rs. 1600 per month he is not a workman as defined under Section 2(s) of the I.D. Act and as such the present reference is outside the jurisdiction of the Tribunal.

The concerned person was appointed as Foreman trainee by letter dated 22/25-2-75 containing the terms and condition of service. He was posted at Sadamdih Project with effect from 10-4-75 where he reported for his duty in terms of the appointment letter. His services as Foreman trainee commenced from 10-3-75 after he gave his acceptance to the terms and condition of employment. According to the conditions of service the minimum period of training was specified as 2 years subject to extension at the discretion of the management. He was required to pass departmental examination test during the period of his training. He was to be absorbed as Foreman after completion of satisfactory training and passing the requisite test according to the availability of vacancies of the post of Foreman. The selection committee constituted for selection of Foreman trainee for permanent absorption as Foreman met on 23-5-77 and recommended the names of 27

candidates including the concerned person for permanent absorption. The concerned person was not found suitable to be absorbed retrospectively with effect from 10-3-77 and his period of training was deemed to have been extended upto 10-6-77. On the recommendation of the D.P.C. the concerned person was appointed as Foreman with effect from 10-6-77 vide letter dated 4-6-77. In April, 1979 a D.P.C. was constituted to consider and recommend the candidates for promotion from Foreman to Foreman incharge. The concerned persons submitted his bio-data stating therein that he is continuing as Foreman from 10-3-76 and thereby claiming to have completed minimum number of years of experience as Foreman to be considered for his promotion to the post of Foreman incharge. The concerned person thus deliberately and consciously submitted the wrong date of entry in the job of Foreman with a view to gain benefit of consideration for promotion. On the basis of the said bio-data submitted by the concerned person the D.P.C. recommended for his promotion considering him as Senior to several Foreman. The management promoted the concerned person by letter dated 17/19-12-79 from the post of Foreman to Foreman incharge on the recommendation of the D.P.C. The matter remained suppressed and the concerned person continued to work as Foreman incharge. The correct position came to light when his co-worker senior to him were not promoted came to know about the promotion of the concerned person and demanded their promotion on the light of the promotion of the concerned person. The management therefore cancelled the promotion of the concerned person by letter dated 25-3-85 and approved his promotion from 13-11-82 from which date his contemporaries were promoted. The promotion of the concerned person by letter dated 17/19-12-79 was null and void as the same was contrary to the cadres scheme. The concerned person had submitted false statement in his bio-data from and obtained the promotion by manoeuvring thing amounting to fraud. The cancellation of promotion of the concerned person was legal bonafide and justified. The next sitting of D.P.C. was held in 1982 and the batch mates of the concerned person were promoted as Foreman incharge with effect from 13-11-82 and as such the concerned person was also promoted with effect from 13-11-82. On the above plea it is submitted that the concerned person is not entitled to any relief.

The points for consideration are (1) whether the management was justified in withdrawing the promotion of the concerned workman as Foreman incharge and modifying the effect of his promotion to 13-11-82 and (2) whether the concerned person is a workman under Section 2 (s) of the I.D. Act.

The management examined three witnesses and the workmen examined one witness in support of their respective case. The documents of the management have been marked Ext. M-1 to M-9 and the documents of the workmen are marked Ext. W-1 to W-9.

Some of the facts are admitted. The concerned workman had joined as Foreman trainee with effect from 10-3-75. Ext. M-2 which is equivalent to Ext. W-4 is an office order dated 10-3-75 which shows that the concerned workman reported for his duty as Foreman trainee on 10-2-75. Ext. M-1 which is equivalent to Ext. W-1 dated 22/25-2-75 is the appointment letter of the concerned workman as Foreman trainee (E & M) which shows that he was to be on training for a period of 2 years from the date of his joining which can be extended at the discretion of the management. Ext. M-3 which is equivalent to Ext. W-2 dated 4-6-77 is the appointment of the concerned workman to the post of Foreman (Electrical and Mechanical) and shows that the appointment was to take effect from 10-6-77. Ext. M-4 is the office order dated 17/19-12-79 which shows that the concerned workman along with others who was working as Foreman were promoted to the post of Foreman incharge (E & M) in technical and supervisory grade-A. The names of the concerned workman is at Sl. No. 106 of the list. Ext. M-5 dated 25/27-3-85 is an order which shows that as Shri S. P. Singh had not completed the cadre at the time of the holding of the D.P.C. in April, 1973, he was not eligible for promotion to the post of Foreman incharge and his promotion was apparently manipulated by him by submitting false bio data in respect of his entry in the grade of Foreman and as such his promotion was null and void

and therefore his promotion was cancelled with immediate effect. It will further appear from his office order that the concerned workman was promoted to the post of Foreman incharge on the basis of bio data submitted by him through prescribed bio data sheet in which the concerned workman had given his date of coming to the post of Foreman as 10-3-76 whereas the correct date of his coming to the post of Foreman was 10-7-76 as per appointment order dated 4-6-77 issued to him by the G.M. Ext. M-6 is the bio data submitted by the concerned workman on 28-4-79 for consideration for his promotion to the post of Foreman incharge. It will appear from para 1.6.4 of Ext. M-6 which deals with the date of completion of training and the concerned workman stated that he completed his training on 10-3-76. Para 1.4.3 deals with the date of joining and place and against it the concerned workman has given the date 10-3-75 at Sudamdih Project. In para 1.2.1 the concerned workman stated 10-3-75 as the date of entry in the present grade. Most of these facts are admitted. The case of the concerned workman is that the management issued order dated 30-11-77 according to which the Foreman trainee who were absorbed in the company were deemed to have been absorbed in the company on completion of one year training from the date they have reported at G.J. Area as Foreman trainee and that they were given a national date of absorption on completion of one year training without any monetary benefit which was not to affect the seniority position in the CJ Area. Accordingly the said office order was forwarded to the concerned workman and the photo copy is marked is Ext. W-3. The main contention of the concerned workman is that as per office order Ext. W-3 he completed the period of his training as Foreman on 10-3-76 as he had joined his training with effect from 10-3-75 and if 10-3-76 is reckoned as the period of his absorption as Foreman vide Ext. W-3, the concerned workman has committed no fraud in filling up the bio data Ext. M-6 and that the concerned workman had completed 3 years of experience as Foreman from 10-3-76 in April, 1979 when the case of promotion of the Foreman to the post of Foreman incharge was to be considered by the D.P.C. On reference to the W.S. of the management and the evidence of the witnesses examined on behalf of the management the existence and effect of Ext. W-3 has been completely ignored. Neither Ext. M-5 nor Ext. W-5 dated 24-4-85 had considered the effect of the office order Ext. W-3. Office order of the management only considered the fact that according to the original condition of service the concerned workman completed his training after more than 2 years and as such he had given wrong bio data in Ext. M-6 and accordingly he had not completed 3 years of experience as Foreman and as such he was not entitled for being considered for promotion to the post of Foreman incharge and that his case was again considered in 1982 along with other workmen and was promoted with effect from 13-11-82 i.e. the date from which the other candidates who became eligible for promotion to the post of Foreman incharge after 1979. On consideration of the above document it is clear that the reasons given by the management for cancellation of the promotion of the concerned workman to the post of Foreman incharge in the office order Ext. M-5 dated 25/27-3-85 is not correct as according to the office order Ext. W-3 the concerned workman had already completed his period of training of one year on 10-3-76 and had completed 3 years of experience as Foreman at the time of the consideration of his case for promotion to the post of Foreman incharge.

WW-1 S. P. Singh is the concerned workman. He has stated that he was appointed as Foreman trainee on 10-3-75 and had joined in CJ area Sudamdih. He has stated that formerly the training period was for 2 years and after completing the training he was regularised as Foreman incharge w.e.f. 10-6-77. He has stated that subsequently a circular was issued by which the training period was reduced to one year only from the date of joining as a trainee and as such his regularisation was made effective from 10-3-76. This evidence of WW-1 is in consonance with office order Ext. W-3 and the management has not adduced any evidence to show that the said office order will not be applicable in the case of the concerned workman. On the contrary Ext. W-3 shows that a copy of it was sent to the concerned workman as the said circular was affecting the period of his regularisation as well. The management has examined three witnesses but none of them have come with any explanation that Ext. W-3 was not applicable in the case of the concerned

workman. In cross-examination WW-1 has stated that he had made a declaration about his regularisation as Foreman on 10-3-76 at the time of consideration of his promotion as Foreman Incharge. He has very clearly stated that at first he had received letter of his regularisation as Foreman with effect from 10-6-76 but subsequently he had received Ext. W-3 dated 30-11-77 the effect of which was to regularise him with effect from 10-3-76. He has stated that he had not received any letter besides Ext. W-3 regarding his regularisation with effect from 10-3-76 but I do not think that any individual letter was necessary in the face of the office order Ext. W-3.

MW-3 Shri A. D. Shukla was in CJ area of Sudumdih area as Asstt. Personnel Manager in 1977 and was one of the member of the D.P.C. He has proved the report of the D.P.C. dated 23-5-77 which is Ex M-9 in the case. He has stated that the promotion was considered on the basis of the service record and confidential records. He has stated that he does not know if any letter was given to any workman whose period of training was extended by the D.P.C. beyond the prescribed of training. He has also stated that he cannot say if any intimation had been given to the persons concerned regarding their unsatisfactory performance during the training period. The management has produced no paper to show that the period of training of the concerned workman was extended because of his inadequate performance as stated in Ext. M-9. If the management had, in fact found the performance of the concerned workman inadequate, the same must have been communicated to the concerned workman and also informing him that the period of his training was further extended. However, the matter whether the period of training was extended in the case of the concerned workman and that he had been absorbed as Foreman from 10th of June, 1977 loses all significance in view of the issuance of the office order Ext. W-3 by which it was deemed that after completing one year of training from the date of report at CJ area as Foreman trainee the trainee Foreman will be absorbed in the company. Thus there is no room for doubt that the concerned workman had completed the period of his training on 1-7-76 and entry in his bio-data Ext. M-6 was correct and that he was rightly promoted as Foreman incharge vide office order Ext. M-4 dated 17/19-12-79. The order of the management withdrawing the said order of promotion of the concerned workman as Foreman incharge and modifying the effect of his promotion to 13-11-82 is set aside and the order of his promotion as Foreman incharge vide Ext. M-4 is restored with effect from 19-12-79.

It is submitted on behalf of the management that the concerned workman is a Foreman incharge in supervisory Grade-A drawing wages more than Rs. 1600 per month and his duties are supervisory in nature and as such he is not workman under Section 2(s) of the I.D. Act. The question whether the concerned person is a "workman" under Section 2(s) of the I.D. Act is a question of fact and as such we have to refer to the evidence adduced in the case on behalf of the parties. WW-1 who is the concerned workman has stated that he is drawing wages of about Rs. 1400 to 1600 per month including quarterly bonus. He has denied that he was getting salary for more than Rs. 1600 per month. If the concerned workman was drawing salary more than Rs. 1600 per month, there was no reason as to why the management has not produced any document to show as to what was the amount actually being drawn by the concerned workman. WW-1 has stated that as Foreman incharge he had no authority to grant leave, to take disciplinary action or even to recommend to sanction of leave. He has denied that he supervised the work and was doing managerial work. He has stated that as Foreman incharge he was repairing and maintaining the machine with the help of other worker. He has further stated that the Foreman, Asstt. Foreman are directly under the Engineer and that Fitter and helpers do not work under him. He has stated that he does not supervise and control the work of Foreman, Fitter etc. and that whatever work he does he does with his own hands. The workman has also filed document Ext. W-7 which is authorisation in his name by which he was advised to maintain all the statutory log books which was to be submitted daily to the Sr. Executive Engineer. Ext. W-8 is the office order which shows that overhauling of engine gear boxes and other major repair works in respect of tippers, load deallus. Welding work shall be done at Putki Balihari project automobile workshop as there

is no arrangement for welding gas cutting at Kenduadih automobile workshop and accordingly the concerned workman and other will continue to work in the Putki Balihari Project automobile workshop under the administrative control of Area Manager MW-1 Ram Kishore Prasad who was Overall incharge of Putki Balihari area relating to electrical and mechanical personnel has stated that the concerned workman supervises the work of the persons allotted to work under him and that the concerned workman makes report to the SE. In cross-examination he has stated that the Supdt. Incharge is the direct incharge of Auto workshop where the concerned workman works. MW-2 Shri A. K. Ghosh, SE is incharge of the Auto workshop of Putki Balihari area where heavy vehicle are repaired and managed. According to him the concerned workman does mainly the supervisory job or some clerical job. In cross-examination he has stated that Shri R. K. Singh, Dy. Chief Engineer WW-1 has no direct concern with the auto workshop. Thus it appears that MW-1 is not competent to state the works being performed by the concerned workman as Foreman incharge. According to the evidence of MW-2 there is no head fitter and Foreman under the concerned workman. Thus it does not appear that the concerned workman was exercising supervision over Foreman or Fitters. Admittedly the concerned workman was a technical hand. There is no evidence to show that he was drawing wages exceeding Rs. 1600 or that he was employed in supervisory capacity and exercising supervision and control over his subordinates. On the contrary it appears that there were higher authorities who were incharge of the supervision work. Considering all the evidence I hold that the case of the concerned workman is covered under the definition of "Workman" under Section 2(s) of the I.D. Act.

In the result, I hold that the action of the management of M/s. BCCL in withdrawing promotion as Foreman incharge in respect of the concerned workman Shri Suresh Prasad Singh and modifying the effect of his promotion to 13-11-82 is not justified. I further held that the order withdrawing the promotion of the concerned workman as Foreman incharge is set aside and promotion made vide order dated 17/19-12-79 is restored. The management is directed to restore his promotion as Foreman Incharge and to pay difference of wages, if any within one month from the date of publication of the Award.

This is my award.

I. N. SINHA, Presiding Officer

[No. L-20012/5/86D.II(A)/IR(Coal)]

का आ 97.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सैसई भारत कॉलियरी कोल लि. का अगारपाथरा कॉलियरी के प्रबन्धन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 अनुवाद के पचाट को प्रकाशित करती है।

S.O. 97.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Angarpathra Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2), AT DHANBAD

Reference No. 191 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Angarpathra Colliery of Messrs Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri J. P. Singh, Advocate.

On behalf of the employers.—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 7th December, 1988

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012-(75)/84-D.III(A), dated, the 26th May, 1986.

SCHEDULE

"Whether the demand of Dalit Mazdoor Sangh that the management of Angarpathra Colliery of M/s. Bharat Coking Coal Limited should give employment to Shri Gupteshwar Nonia, dependant of a workman of the colliery, late Sukhan Nonia, Miner is justified? If so, to what relief is Shri Gupteshwar Nonia, dependant is entitled?"

The case of the workmen is that late Sukhan Nonia was employed as Miner in Angarpathra Colliery of M/s. BCCL. He died on 11-3-76 due to injury sustained while at work in the colliery. The fact that Sukhan Nonia died on the spot on 11-3-76 due to fatal accident while working at colliery was certified by the Manager of the colliery in his certificate dated 28-1-80. After the death of late Sukhan Nonia his widow Chhatia Beldarin demanded for employment of their son Gupteshwar Nonia as per BCCL's circular. The management did not pay any heed to the request for giving employment to the dependant of the deceased Sukhan Nonia. Thereafter Dalit Mazdoor Sangh took up the case with the management for giving employment to Gupteshwar Nonia dependant son of late Sukhan Nonia. The management had been assuring to give employment to him but so far Gupteshwar Nonia was not given any employment. The union had several discussions with the management in respect of giving employment to Gupteshwar Nonia as dependant son of late Sukhan Nonia who had died by fatal accident in course of his duty. It will appear from the perusal of the record note of discussion that it was decided by the management that if compensation for fatal accident of late Sukhan Nonia has been paid, employment will be given to the dependant of late Sukhan Nonia provided nobody also gets employment in place of late Sukhan Nonia. Lastly the record note of discussion were drawn on 31-1-85 by which the union was informed that as the union had raised an industrial dispute before the ALC(C), Dhanbad ending in failure it would not be possible to consider the matter pending Ministry's decision and the union was advised to await the Ministry's decision. The management was in complete agreement with the union to settle the dispute by giving employment of Shri Gupteshwar Nonia dependant son of late Sukhan Nonia. The Union had submitted papers before the authorities in proof of the fact that late Sukhan Nonia died due to fatal accident while on work and that compensation was paid for his accidental death. The union raised industrial dispute before the ALC(C), Dhanbad and on failure report being sent to the Govt. of India, Ministry of Labour the present reference was made to this Tribunal for adjudication. The action of the management in not providing employment to Shri Gupteshwar Nonia dependant son of late Sukhan Nonia is malafide and unjustified. On the above facts it has been prayed that Shri Gupteshwar Nonia dependant son of late Sukhan Nonia should be given employment and that he should also be compensated for the loss suffered by him from the date of his demand for employment.

It will appear from the reference that the name of Sukhan Nonia has been wrongly stated as late Sultan Nonia in the schedule to the order of reference as admittedly Shri Gupteshwar Nonia is the son of Sukhan Nonia and the union had raised the industrial dispute in respect of the son of late Sukhan Nonia and not of late Sultan Nonia. According to the workman there was no Sultan Nonia working as a Miner who had died due to accident while on work.

The case of the management is that the present reference is not legally maintainable as there was no workman named as Sultan Nonia employed in Angarpathra Colliery of M/s. BCCL. The sponsoring union had raised the dispute for employment of Shri Gupteshwar Nonia as dependant son of late Sukhan Nonia who died in an accident on 11-3-76 under the social security measure under NCWA-II which became applicable from 1-1-79. Present demand therefore suffers from delay and laches and it has no legal foundation as the time of accident of Sukhan Nonia NCWA-II was not applicable. After the death of Sukhan Nonia his widow Chhatia Beldarin approached the management to give her employment in place of her late husband Sukhan Nonia. Late Sukhan Nonia was permanent loader and because of his illness his wife used to be employed as badli casual wagon loader. After his death she was made permanent wagon loader as per discussion between the union and the management. The management considered the case of Chhatia Beldarin, widow of late Sukhan Nonia, and gave her permanent employment in place of her husband on humanitarian ground. Thus there was no further scope of helping the family of late Sukhan Nonia by the Management. The present claim of the union for employment of Shri Gupteshwar Nonia, the son of late Sukhan Nonia in place of his father after 10 years of death of Sukhan Nonia and employment of his widow in his place is without any legal basis or foundation. Late Sukhan Nonia was never a member of the union during his life time and the union has no right to raise an industrial dispute on behalf of late Sukhan Nonia. Shri Gupteshwar Nonia was not a workman and the union cannot raise a dispute in favour of a stranger. The management is not aware if Shri Gupteshwar Nonia is the son of late Sukhan Nonia. On the above facts it is submitted that the present claim is without any jurisdiction and Shri Gupteshwar Nonia is not entitled to any relief.

The point for consideration in this case are (1) whether Shri Gupteshwar Nonia is the son of late Sukhan Nonia, (2) whether Gupteshwar Nonia is entitled to employment in place of late Sukhan Nonia who had died due to fatal accident while on duty (3) whether the union is justified in raising the dispute.

Point No. 1 :

The fact that Gupteshwar Nonia is the son of late Sukhan Nonia has not been contested during hearing of the case. The management examined only one witness on their behalf. MW-1 has stated that Sukhan Nonia was working in Angarpathra colliery who died in accident in the mine on 11-3-76. He has further stated that the wife of Sukhan Nonia namely Smt. Chhatia Beldarin was working as casual wagon loader since before the death of her husband. He has not denied that Gupteshwar Nonia is not the son of late Sukhan Nonia. Towards the end of his cross-examination he has stated that he knew Sukhan Nonia and Chhatia Beldarin personally but he does not know about their son. Thus the only witness examined on behalf of the management has not denied about the parentage of Gupteshwar Nonia. The workman, on the other hand, have examined Gupteshwar Nonia who has stated that he is the son of late Sukhan Nonia. WW-2 Chhatia Beldarin wife of late Sukhan Nonia has also stated that Gupteshwar Nonia is her eldest son from late Sukhan Nonia. She has further stated that she had applied for employment to her son Gupteshwar Nonia but the management did not give any employment and thereafter the present dispute was raised. She has not been cross-examined on the fact that Gupteshwar Nonia is not the son of late Sukhan Nonia. Besides this WW-1 Shri Karu Ram has also stated that Gupteshwar Nonia is the son of Chhatia Beldarin and Sukhan Nonia. The workmen have further filed some certificates Ext. W-10 granted by the Anchal Adhikari of Kutumba dated 30-1-81 and Mukhiya of Gram Panchayat dated 11-2-85 to show that Gupteshwar Nonia is the son of late Sukhan Nonia of village Bodhi Bigha, P. S. Kutumba. Ext. W-1 is the record note of discussion held on 16-8-84 at Karmik Bhawan between the union and the management. Item No. 19 is in connection with the case of late Sukhan Nonia of Angarpathra colliery and it was decided that if management has paid compensation for the fatal accident papers for employment to the dependant shall be further processed provided that nobody has got employment in his place. Ext. W-2 in item No. 8 Ext. W-3 dated 19-12-83, Ext. W-4 dated 31-1-85 will

also show that the management had never disputed about the parentage of Gupteshwar Nonia son of late Sukhan Nonia. In the W.S. of the management in para-8 it is simply stated that the management is not aware if Shri Gupteshwar Nonia is the son of late Sukhan Nonia. It appears, therefore, that the management was not in a position to deny the parentage of Gupteshwar Nonia. There is positive evidence to show that Gupteshwar Nonia is the son of late Sukhan Nonia and there is absolutely no reason to disbelieve the said fact. I hold therefore that Gupteshwar Nonia is the son of late Sukhan Nonia.

Point No. 2 :

The main contention raised on behalf of the management in the W.S. is that Chhatia Baldarin widow of late Sukhan Nonia was already given employment in place of her deceased husband and as such there was no case of further giving appointment of his son Gupteshwar Nonia. The management examined MW-1 Ram Narain Prasad working as clerk in Angarpathra Colliery. He has stated that the wife of Sukhan Nonia namely Chhatia Beldarin was working as a casual wagon loader since before the death of her husband and that after the death of Sukhan Nonia his widow Chhatia Beldarin was made permanent wagon loader. He has proved Dodus Register of 1976 which shows that Chhatia Beldarin was a casual wagon loader. He has proved Ext. M-2 dated 13-10-76 which is an office order which shows that Chhatia Beldarin, Casual wagon loader was regularised as Wagon loader with immediate effect. There is no mention in this office order that Chhatia Beldarin was being regularised in place of her deceased husband Sukhan Nonia. No document has been filed on behalf of the management to show that Chhatia Beldarin was regularised in place of her deceased husband in 1976. It is admitted by WW-1 Chhatia Beldarin that she is working as permanent wagon loader of Angarpathra Colliery. She has denied that she became permanent wagon loader after death of her husband in his place. She has also stated that she was working as Casual wagon loader prior to her becoming a permanent wagon loader. MW-1 has stated in the cross-examination that Chhatia Beldarin was appointed as casual wagon loader on 17-10-71. He has further stated that a wagon loader is made permanent in the year in which he completes 240 days of attendance in a year. He has stated that Chhatia Beldarin have not filed any petition before the management for making her permanent wagon loader in place of her deceased husband. He has further stated that he does not know if any union had made any representation that Chhatia Beldarin be made permanent. Towards the end of his cross-examination MW-1 has stated that no other letter than Ext. H-2 was issued earlier making Chhatia Beldarin as permanent wagon loader. It appears therefore that the management has no paper to show that Chhatia Beldarin was made permanent wagon loader in place of her husband. It is also apparent that Chhatia Beldarin had not filed any petition before the management for making her permanent wagon loader in place of her husband otherwise the management must have filed the said petition to establish that she was made permanent on the basis of her petition in place of her deceased husband. It is clear therefore that Chhatia Beldarin who was working as casual wagon loader since 17-10-71 completed attendance of 240 days in a year and as such he was regularised as wagon loader vide office order Ext. M-2 dated 12-10-76. Had Chhatia Beldarin been regularised in place of her deceased husband the management must have stated so in the several minutes of discussion which have been exhibited in this case. I hold therefore that Chhatia Beldarin was regularised vide Ext. M-2 not on the basis of being a widow of late Sukhan Nonia who had died while on work, and that she had been regularised in her own right because of the fact that she had completed more than 240 days of attendance in a year. I hold therefore that Chhatia Beldarin was not given employment by the management in place of her deceased husband Sukhan Nonia on compassionate ground.

According to Clause 10.4.1 and 10.4.2 of N.C.W.A II provision has been made for employment of one dependant of the worker who dies while in service. The evidence in case shows that Sukhan Nonia died in a fatal accident on 11-3-76 NCWA-II no doubt came into effect from 1-1-79 but the case of the workmen is that in case of fatal accident of a

workman on duty his dependant was given employment since long before coming into force of NCWA-II. It was for this reason that the management in the record note of discussion dated 16-8-84 (Ext. W-1) in item No. 19 decided that if the management has made compensation for the fatal accident papers for employment to the dependant shall be further processed provided that nobody has got employment in his place. WW-2 Chhatia Beldarin has stated that she got Rs. 21,000 as compensation in respect of the death of her husband in accident while working. Thus the first point in item No. 19 appears to be established that Chhatia Beldarin had received the compensation for the fatal accident of her husband. There is no denial by the management that she did not receive the compensation for the fatal accident of Sukhan Nonia. The second objection in item No. 19 of Ext. M-1 is employment will be given to the dependant of deceased Sukhan Nonia provided that nobody has got employment in his place. The management had developed of late that Chhatia Beldarin was given employment in place of her deceased husband but as discussed above it will appear that she was regularised in her own rights and that the management had not offered any employment to the dependant of deceased Sukhan Nonia any as such it appears that the claim of employment for Gupteshwar Nonia is quite justified. The management had not earlier raised any objection on the point that as NCWA-II was not applicable as such the dependant of deceased Sukhan Nonia will not get any employment. On the contrary the case of the management that Chhatia Beldarin widow Sukhan Nonia was given employment in place of her deceased husband itself establishes that the management had agreed to give employment to the dependant of deceased Sukhan Nonia and therefore the management was making out a case that employment was given to Chhatia Beldarin in place of her deceased husband as he had died due to fatal injury while on duty. The fact that the management has not given employment to Chhatia Beldarin in place of her deceased husband, it is clear that Gupteshwar Nonia, son of deceased Sukhan Nonia, is entitled for employment in place of his deceased father who had died due to fatal accident while on duty. I hold therefore that Gupteshwar Nonia is entitled to employment in place of late Sukhan Nonia who had died due to fatal accident on duty.

Point No. 3 :

The management has objected that the union has no right to arise the present industrial dispute in as much as Gupteshwar Nonia is not a workman. Where the workmen raise dispute against their employer, the person regarding whose employment, or condition of labour the dispute is raised need not be, strictly speaking, "workman" within meaning of the Act but must be one in whose employment, the terms of employment or conditions of labour the workmen as a class have a direct or substantial interest. A decision reported in AIR, 1952 Supreme Court p 1026 shows that where the workmen raise a dispute as against their employment the person or persons regarding whose employment or non employment the dispute is raised need not be strictly speaking 'workmen' within the meaning of the Act but must be persons in whom a employment the workmen as a class have a direct or substantial interest. In the present case it will appear that the union is claiming employment for the dependant of a deceased employee dying in fatal accident on duty and all the workman have interest as the same fate may have to be met by any one of them dying in a fatal accident on duty and they would desire that their dependant be given employment so that the family may not starve. This is such a question in which the workmen as a class are all substantially interested and as such the union is quite justified in raising the present industrial dispute for giving employment to Gupteshwar Nonia son of deceased Sukhan Nonia who died in fatal accident while on duty. In the above view of the matter I hold that the union has right to raise the present industrial dispute and it is not necessary for Gupteshwar Nonia to be a member of the union.

In the result, I hold that the demand of Dalit Mazdoor Santh that the management of Angarpathra colliery of M/s. DCCI should give employment to Shri Gupteshwar Nonia, dependant of late Sukhan Nonia is justified. The management is directed to give employment to Gupteshwar Nonia as dependant son of late Sukhan Nonia who died

in fatal accident while on duty within one month from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer.
[No. L-20012/75]84-D.III(A)[IR(Coal (I))]

K. J. DYVA PRASAD, Desk Officer
नई दिल्ली, 30 दिसम्बर, 1988

का. भा. 98—कर्मचारी राज्य अधिनियम, 1948 (1948 का 34)
की धारा 36 के अनुसरण में, कर्मचारी राज्य बीमा निगम के वर्ष 1987-88

संबंधी परीक्षित लेखन तथा उनके संबंध में लेखा परीक्षा रिपोर्ट क्रम सूचना के लिए प्रकाशित की जाती है :—

कर्मचारी राज्य बीमा निगम

लेखे तथा लेखे

परीक्षा रिपोर्ट 1987-88

कर्मचारी राज्य बीमा निगम, 1987-88 वर्ष के लेखे

कर्मचारी राज्य बीमा निगम,

31 मार्च, 1988 को समाप्त वर्ष का आय व्यय लेखा

क्र.सं.	आय	धनसूची	(संलग्न व्ययों में राशि)	
			(1987-88)	1986-87)
1.	अंशदान आय		3,24,11,64	3,23,40,23
	(अंशदान पर व्याज की शामिल करने हुए)			
2.	व्याज तथा लाभांश		62,27.29	49,92.10
3.	किराया, घर तथा कर		11,34.01	11,20.45
4.	मुद्रावली		2,03.36	2,72.89
5.	महायज्ञ अनुदान		11.63 (क)	—
6.	निगम द्वारा चिकित्सा देख रेख पर प्रारम्भ में किए गए खर्चों में दिल्ली प्रशासन का योगदान		4,70.38	44.69
7.	विधि		76.46	50.64
		जोड़	3,95,34.77	3,79,21.00
अ. व्यय				
1.	चिकित्सा हितलाभ	"क"	1,10,71.00	1,15,60.80
2.	नकद हितलाभ	"ख"	1,04,32.35	1,03,34.15
3.	आय हितलाभ	"ग" "घ"	29.67	26.30
4.	प्रशासन व्यय			
क.	अधीक्षण		18,81.05	16,13.36
ख.	कोलीय कार्य		15,84.45	13,53.00
ग.	ग्रन्थ खर्च	"न"	5,57.28	4,74.95
5.	निम्नलिखित के लिए धन व्यवस्था			
क.	अस्पताल/औषधानियों का मूल्यह्रास		1,17.69	1,07.79
ख.	अस्पताल/औषधानियों को मरम्मत तथा रख-रखाव		4,70.76	4,31.15
6.	पूँजीगत निर्माण निधि के लिए धन व्यवस्था		16,19.88	16,16.46
7.	आकस्मिकता आरक्षित निधि के लिए धन व्यवस्था		—	1,29.94
		जोड़	2,77,54.13	2,76,47.90
ग. क. रा. यौ. सामान्य आरक्षित में अनुरित निम्न अधिव्यय		कुल जोड़	1,17,80.64	1,02,73.10
			3,95,34.77	3,79,21.00

(क) यह राशि परिवार कल्याण कार्यक्रम के अधीन जन-परीक्षा कार्यक्रम के लिए दिल्ली प्रशासन में अनुदान को सूचक है।

(1) मुद्रावली कर्मचारी राज्य बीमा अधिनियम के उपबन्धों के अन्तर्गत उन मामलों में राज्य सरकारों से वसूल की गई राशि के सूचक हैं जिनमें बीमा-हृत व्यक्तियों की बीमारी हितलाभ अखिल भारतीय औसत से अधिक है।

(2) विधि आय में निम्नलिखित शामिल हैं :—

(क) देय राशि को समय पर अदायगी न कर सकने या अंशदायी व्यौरे न भेजने के लिए नियोक्तों पर लगाए गए दंडांश आय, तथा राशि, छुट्टी बेतन तथा पेंशन अंशदान, केंद्रीय सरकार स्वास्थ्य योजना में अंशदान आदि।

(iii) प्रशासन व्यय के अग्रे निम्न प्रकार हैं :

	1987-88	1986-87
	लाख रुपयों में	
(क) वेतन तथा भत्ते	30,79.27	26,17.16
(ख) सांक्रिमिक व्यय	3,86.23	3,49.20
(ग) अन्य प्रभार	5,57.38	4,74.95
(अनुसूची "ग" देखें)	40,22.78	34,31.31

40,22.78 लाख रुपए का प्रशासन व्यय कुल व्ययों का 12.41 % तथा कुल राजस्व व्यय का 14.49 % है।

(4) पूँजीगत निर्माण धारित निधि अस्वत्सों, औद्योगिकों, कार्यालय, भवनों तथा स्टॉक बार्डों आदि के निर्माण के लिए है। निधि में बकाया राशि के निवेश से प्राप्त व्याज के अलावा हर वर्ष अंशदान आय का 5 % निधि में क्रेडिट किया जाता है। तुलनापत्र के नीचे टिप्पणी (क) भी देखें।

(5) किसी आपात स्थिति का सामना करने के लिए अक्रिमिकता धारित निधि (जिसे पहले आपात धारित निधि कहा जाता था) का सृजन किया गया है। स्थायी समिति तथा निगम की दिनांक 27/28 नवम्बर, 1986 को सम्पन्न बैठकों में लिए गए निर्णय के अनुसार निधि में बकाया राशि केवल 75.00 करोड़ रुपए तक सीमा रखी गई है। इस निधि में बकाया राशि 75 करोड़ रुपए होने के कारण अब के दौरान कोई धन व्यवस्था नहीं की गई है।

(नरोत्तम व्यास)

वित्तीय सलाहकार एवं मुख्य लेखा अधिकारी

मई दिल्ली

दिनांक 31 मई, 1988

31-3-1988 की स्थिति के अनुसार तुलना पत्र

(लाख रुपयों में राशि)

निधियों के श्रेणियाँ	अनुसूची	31-3-1988 की स्थिति अनुसार	31-3-1987 की स्थिति के अनुसार
1. क. रा. बी. सामान्य धारित	"घ"	4,65,21.78	3,53,69.45
2. धारित निधियाँ	"ख"	7,11,29.11	6,23,21.99
3. जमा	"ग"	1,17.55	1,50.72
		11,77,68.44	9,78,42.16

निधियों का इस्तेमाल अथवा परिसम्पत्तियाँ

4. भूमि और मकान तथा स्टॉक कार

"ख" 1,55,82.83 1,27,21.09

5. निर्माणधीन पूँजीगत कार्य

"ख" 50,69.56 60,04.42

निवेश

6. (1) धारित निधियाँ

"ख" 4,93,64.55 4,26,25.93

(2) सामान्य रोकड़ शेष

"ग" 4,50,78.42 3,34,28.06

आवृ परिसम्पत्तियाँ

पेणियाँ

7. भवनों की मरम्मत और समुद्राण के लिए

"ग" 11,29.53 9,96.92

8. अन्य पेण पेणियाँ

"ग" 4,59.05 4,09.47

9. हाथ रोकड़/बैंक रोकड़ (पेण सहित)

10,84.50 16,66.27

11,77,68.44 9,78,42.16

टिप्पणी: -

(क) निर्देशों में निम्नलिखित शामिल है: -

	31-3-1988
	(लाख रुपयों में)
1 निर्धारित आरक्षित निधियां अनुसूची-अ	4,18,84.55
2 आकस्मिकता आरक्षित निधि आपात आरक्षित निधि	75,00.00
3 क. रा. बी. सामान्य आरक्षित (सामान्य रोकड़ शेष अनुसूची 1)	1,50,78.42
जोड़:	9,44,42.97

(ख) बैंकों में रोकड़ (31-3-1988 की स्थिति के अनुसार 8,41.51 लाख रुपये) निम्नलिखित है:-

(i) 30 और 31 मार्च, 1988 को बलून के रूप में क्षेत्रीय कार्यालय

संख्या 1 में बकाया

(ii) प्रशासन व्यय तथा तथा दिल्ली में चिकित्सा देख रेख पर व्यय के लिए क्षेत्रीय कार्यालय/निदेशालय (चि) दिल्ली लेखा संख्या 2 में बकाया

(iii) बीमाकृत व्यक्तियों को नकद हितलाभ के सुगतान के लिए स्थानीय कार्यालय लेखा सं 2 में बकाया ।

सरोजम ब्राम

वित्तीय सलाहकार एवं मुख्य लेखा अधिकारी

नई दिल्ली,

दिनांक 31 मार्च, 1988

अनुसूची

राशि	चिकित्सा हितलाभ	राशि
(1986-87)		
1,06,99,57,115	चिकित्सा उपचार तथा प्रभुति सुविधाओं आदि की व्यवस्था पर होने वाले खर्चों में निगम के अंतर्गत रूप में राज्य सरकारों को अदायगी	99,35,64,647
8,50,23,288	निम्नलिखित की व्यवस्था पर सीधे किया गया व्यय (i) दिल्ली संघ राज्य क्षेत्रों में क. रा. बी. निगम द्वारा चिकित्सा देख रेख तथा प्रभुति सुविधाएं (ii) महाराष्ट्र में बीमाकृत महिलाओं तथा बीमाकृत व्यक्तियों की पत्नियों को प्रत्यक्ष शुल्क	11,33,76,425
1,99,470		1,59,090
1,15,60,79,873	जोड़	1,10,71,21,800

अनुसूची

नकद हितलाभ के व्ययों

राशि 1986-87	विवरण	राशि 1987-88
रुपये		रुपये
53,34,46,176	(i) बीमारी हितलाभ	49,20,47,278
8,59,989	(ii) परिवार नियोजन के लिए विधित्त बीमारी हितलाभ	6,46,073
3,96,05,869	(iii) विस्फारित बीमारी हितलाभ	4,24,81,166
2,88,59,277	4 प्रभुति हितलाभ	3,09,28,818
16,93,70,874	5 अर्पणता हितलाभ	
16,95	(क) अस्थायी	15,37,52,960
17,80,77,000	(ख) अस्थायी पूंजीकृत मूल्य	21,26,42,000
8,16,56,000	(6) आधुनिक जन हितलाभ (पूंजीकृत मूल्य)	10,51,66,000
13,39,858	(ii) अस्पष्ट हितलाभ	45,71,259
1,03,34,15,043	जोड़	1,04,22,35,554

राशि (1980-87)	अनुसूची 'ब' अन्य कृतियों के व्यय	राशि (1987-88)
रुपये		रुपये
886	(i) धर्म बोमाकृत व्यक्तियों के पुनर्वास पर व्यय	—
7,196,13	(ii) चिकित्सा बोर्ड तथा धर्म व्यय पर व्यय	7,45,806
8,16,329	(iii) बोमाकृत व्यक्तियों की अदायगी	9,36,377
10,93,237	क. मरणाधीन तथा/या मरुदूरी की हानि	
20,30,065	ख. परिवार नियोजन के अंतर्गत प्राणिक व्यय	
	4. विविध	12,84,395
	जोड़	29,66,578

राशि 1986-87	अनुसूची 'ग' प्रशासन व्यय के व्यय — अन्य खर्च	राशि
रुपये		रुपये
3,82,48,539	(I) निगम के कर्मचारियों के लिए पेंशन आरक्षित निधि के लिए धन व्यवस्था III निम्नलिखित के लिए धन व्यवस्था	4,53,86,611
51,14,320	(क) कार्यालय भवनों/स्टाफ क्वार्टरों की मरम्मत व पुनर्निर्माण	52,26,480
15,19,760	(ख) कार्यालय भवनों/स्टाफ क्वार्टरों तथा स्टॉक कारों का मूल्यांकन	16,43,780
15,19,760	111. कानूनी खर्च	9,79,264
88,96,144	बीमा व्यायालय	26,326
81,488	लेखा परीक्षण फीस	10,01,300
6,18,337	प्रचार तथा विज्ञापन	2,78,033
2,04,836	छुट्टी वेतन तथा पेंशन अंशदान	1,10,425
1,02,260	अन्तर्राष्ट्रीय सामाजिक सुरक्षा संघ तथा अन्य अन्तर्राष्ट्रीय संगठनों को अंशदान	9,54,625
3,83,221	क. रा. बी. निगम अंशदायी भविष्य निधि में निगम का अंशदान	—(क)—
4,301	भविष्य निधि जमा से जुड़ी बीमा निधि	31,300
9,35,922	बैंक लेखे रखने के खर्च	98,379
1,83,351	हानियाँ	(—) 32,313
43,938	विविध	19,036
20,397		8,057
37,824	जोड़	5,57,28,403
4,74,94,638		

(क) कोई धन व्यवस्था नहीं की गई क्योंकि सभी अंशदायी भविष्य निधि लेखे अब सामान्य भविष्य निधि में अंतरित हो गए हैं।

राशि 1980-87 रुपये	अनुसूची 'घ' का. रा. बी. सामान्य आरक्षित लेखा	राशि (1987-88) रुपये
2,57,24,67,565	पिछले तुलन पत्र के अनुसार शेष	3,53,69,45,497
1,02,73,09,932	जोड़—आय व्यय लेखे में अंतरित प्राधिकार	1,17,80,64,415
	घटाएँ—छटी पंचवर्षीय मूल्यांकित रिपोर्ट में उल्लिखित घाटे की बाबत पाँच अंगसर किशनों में से चौथी किशन के संचय में निम्नलिखित में समायोजन—	
(—) 1,63,10,000	(क) स्थायी धपंगता हितलाभ आरक्षित निधि	(—) 1,63,10,000
(—) 74,79,000	(ख) प्राधिकृत हितलाभ आरक्षित निधि	(—) 74,79,000
() 3,90,43,000	(ग) पेंशन आरक्षित निधि	(—) 3,90,43,000
	31-3-1988 की स्थिति के अनुसार अनुमान शेष	
3,53,69,45,697		4,65,21,77,912

संयुक्त "ख"

भारतीय निधि

अध्याय	31-3-87 की स्थिति के अनुसार शेष	वर्ष में की गई व्यवस्था/वैधित्य	निदेशों पर खर्च	आमात्य प्राधिकृत निधि में अनुचित	जोड़	वर्ष में की गई प्रयत्न-योजना/प्रभावित	31-3-88 की स्थिति के अनुसार शेष
निर्धारित निधियाँ	रुपये	रुपये	रुपये	रुपये	रुपये	रुपये	रुपये
पूँजीगत निधि							
निधि	2,60,76,57,953	16,19,87,700	9,93,18,535		2,94,89,64,188		2,94,89,64,188
स्थायी अपेक्षा							
हितसाधन प्राधिकृत							
निधि	97,78,07,419	21,26,42,000	11,88,67,796	1,63,10,000	1,32,53,27,215	13,32,32,599	1,19,20,94,616
प्राधिकृतजन हित							
लाभ प्राधिकृत निधि	55,94,54,899	10,51,66,000	6,80,31,208	74,79,000	74,01,31,107	4,85,94,224	69,15,36,883
क. रा. बी							
निगम अधिकृत निधि							
(अंशदायी)							
अ निधि सहित)	16,58,57,784	8,68,64,303			25,27,22,087	4,87,01,861	20,19,20,226
क. रा. बी. नि.							
शुद्ध बीमा							
निधि	83,66,282	21,45,947	13,67,324		1,17,79,353	2,67,120	1,15,12,433
निगम के कार्य-लय भवनों की मूल्यांकन प्राधिकृत निधि	1,62,35,791	13,06,629	18,67,251		1,94,09,572	1,16,741	1,92,92,831
अस्पताल भवनों की मूल्यांकन प्राधिकृत निधि	19,18,21,957	1,17,69,040	2,12,95,359		22,48,86,356	26,82,259	22,22,04,097
स्टाफ कार प्रविस्थापन प्राधिकृत निधि	21,86,391	3,37,170	2,85,429		27,68,990	2,30,261	25,58,729
वाणिज्य भवनों तथा स्टॉक क्वार्टरों की परम्परा तथा अनुसंधान आरक्षण निधि	2,71,96,543	52,26,480	19,76,382		3,43,99,405	13,90,251	3,30,09,154
अस्पताल भवनों की परम्परा तथा अनुसंधान प्राधिकृत निधियाँ	35,78,61,396	4,70,76,160	3,49,34,836		43,98,22,392	1,59,32,499	42,39,89,893
समन्वयित्व के लिए पेशन प्राधिकृत निधि	49,80,52,591	5,40,05,941	5,91,18,813	3,90,43,000	64,04,50,015	2,67,12,112	61,37,28,733
	5,48,21,98,616						6,36,29,11,283
कुल निधियाँ	75,00,00,000						75,00,00,000
	6,23,21,98,616						7,11,29,11,283

घनसूची "अ"

जमा राशि

व्योक्त	31-3-87 की स्थिति के अनुसार लेख	वर्ष में की गई जमा राशि	वर्ष में किए गये व्यय/समायोजन	31-3-88 की स्थिति के अनुसार लेख
	रुपये	रुपये	रुपये	रुपये
1. प्रतिष्ठितियों की जमा राशि	16,28,294	5,87,243	7,17,646	14,97,891
2. अन्य गाटियों को देय दिनों से जमा राशि	4,09,594	78,52,075	75,51,625	17,09,844
3. कर्मचारी राज्य बीमा निगम अधिव्य निधि में धरायणी जमा राशि	17,987	17,987
4. विविध जमा राशि	1,30,16,716	57,592	35,44,565	95,29,743
जोड़	1,50,72,591	84,96,910	1,18,14,036	1,17,55,465

घनसूची "ब"

अवत परिचयतिथियाँ

व्योक्त	31-3-87 की स्थिति के अनुसार लेख	वर्ष में बुद्धियाँ	वर्ष के दौरान समायोजन बसूची	31-3-1988 की स्थिति के अनुसार लेख
	रुपये	रुपये	रुपये	रुपये
भूमि तथा भवन				
(1) निगम के पूर्ण स्वामित्व में				
(क) कार्यालय भवन	12,04,69,737	6,93,58,340	..	18,98,28,077
(ख) अस्पताल तथा औद्योगिक	1,14,89,16,121	21,67,18,822	..	1,36,55,34,943
(2) निगम तथा राज्य सरकारों के संयुक्त स्वामित्व में	11,85,085	11,85,085
स्टाफ क्वार्टर	16,38,181	94,447	..	17,35,628
जोड़	1,27,21,09,124	28,61,74,609	..	1,55,82,83,733
निर्माणधीन पूंजीगत कार्य (पूँजीगत निर्माण धारित निधि से दी गई राशि)	60,64 42,423	19,81,89,699	29,16,76,278	50,69,55,844

घनसूची - "अ"

निवेश - धारित निधियाँ

क्रम संख्या	व्योक्त	31-3-87 की स्थिति के अनुसार लेख	वर्ष में निवेश बुद्धियाँ	31-3-88 की स्थिति के अनुसार लेख
1	2	3	4	5
		रुपये	रुपये	रुपये
निर्धारित निधियाँ				
1.	पूँजीगत निर्माण धारित निधि	81,87,44,587	6,87,15,652	88,54,60,239
2.	स्थायी अग्रगता हितलाभ धारित निधि	97,75,07,419	21,45,87,197	1,19,20,94,616
3.	आश्रितजन हितलाभ धारित निधि	55,94,54,899	13,20,81,984	69,15,36,883
4.	क. रा. बी. निगम अधिव्य निधि	16,58,87,784	3,81,62,442	20,40,20,226
5.	क. रा. बी. निगम घुप बीमा निधि	83,66,282	31,46,151	1,15,12,433
6.	निगम के कार्यालय भवनों की मूल्यहास धारित निधि	1,83,55,441	2,78,704	1,56,34,145

1	2	3	4	5
7. अस्पताल भवनों की मूल्यह्रास भारक्षित		17,51,19,816	3,01,05,798	20,52,25,614
8. स्टाफकक्ष प्रतिस्थापन भारक्षित निधि		21,86,391	3,72,333	25,58,729
9. कार्यालय भवनों की मरम्मत व अनुरक्षण भारक्षित निधि		1,62,54,516	29,14,171	1,91,68,687
10. अस्पताल भवनों की मरम्मत व अनुरक्षण		28,76,93,537	5,78,21,178	3,55,14,715
11. कर्मचारियों के लिए पेंशन भारक्षित निधि		48,80,52,291	12,56,75,942	61,37,28,233
		3,51,25,92,963	67,38,61,557	4,18,64,54,520
अन्य निधियां				
आकस्मिकता भारक्षित निधि		75,00,00,000	—	75,00,00,000
(आपात भारक्षित निधि)		—	—	—
कुल जोड़ :		4,26,25,92,963	67,38,61,557	4,93,64,54,528

अनुसूचा - 'स'

कर्मचारी राज्य बीमा सामान्य भारक्षित सामान्य रोकड़ कोष (निवेश)

पिछले तुलन पत्र के अनुसार	3,34,28,06,253
घोड़ :- वर्ष में निवेश	3,13,93,00,000
बटाई i) परिपक्वता पर प्राप्त (—)	1,30,09,02,217
ii) विभिन्न भारक्षित निधियों में अंतरित निवेश (—)	67,38,61,557
31-3-88 की स्थिति के अनुसार शेष	4,36,50,22,479

अनुसूची "ख"

अस्पतालों/औषधालयों/कार्यालयों की मरम्मत तथा अनुरक्षण और विशेष मरम्मत की बाबत पेशगियां

धोरे	31-3-87 की स्थिति के अनुसार शेष	वर्ष में घुशियां	वर्ष में घुशियां	31-3-88 की स्थिति के अनुसार शेष
1	2	3	4	5
	रुपये	रुपये	रुपये	रुपये
मरम्मत तथा अनुरक्षण				
(क) नियम के कार्यालय	1,09,42,027	39,08,303	10,10,863	1,38,40,487
(ख) अस्पताल/औषधालय	7,01,67,859	2,60,24,421	1,77,17,102	7,84,75,178
विशेष मरम्मत				
(ख) अस्पताल/औषधालय	1,67,02,141	46,06,541	43,30,199	1,69,78,483
जोड़	9,86,92,287	3,74,91,235	2,32,30,703	11,29,52,814

अनुसूची "ड"

राज्य पेशगियों के व्ययों

क्र. सं.	विवरण	31-3-87 की स्थिति के अनुसार शेष बचा हुआ	वर्ष के दौरान घटा-या गया	वर्ष में की गई कमियाँ	31-3-88 की स्थिति के अनुसार शेष बचा हुआ
1	2	3	4	5	6
1.	विभागाध्यक्ष की स्थायी पेशगी	2,78,057	32,005	275	3,09,787
2.	कर्मचारियों के स्वामित्व पर धन की पेशगियाँ	1,300	2,32,740	1,81,873	52,667
3.	कर्मचारियों के स्वामित्व पर यात्रा भत्ते की पेशगियाँ	2,87,707	7,38,119	7,46,306	2,79,520
4.	सवारी की खरीद के लिए पेशगी	27,04,764	58,00,133	13,29,098	64,75,799
5.	गृह निर्माण पेशगी	2,03,89,707	76,80,257	36,63,934	2,44,05,980
6.	लौह्रा/पंखा/बड़ पेशगी	22,70,606	37,73,043	45,19,950	22,23,698
7.	अन्य विविध पेशगियाँ	67,74,819	76,54,939	83,18,979	61,10,779
8.	1977-78 से पहले महापद्म सन्कार को अस्पतालों के निर्माण के लिए कर्ज	75,40,000	---	14,93,334	60,46,666
जोड़		4,09,49,839	3,57,11,236	2,07,53,299	4,59,04,796

जनवरी राज्य बोमा निगम - सविष्य निधि
31-3-88 की स्थिति के अनुसार प्राय तथा अभावगियाँ

प्राय	राशि (पूरे रुपये में)	अभावगियाँ	अभावगियाँ	निधि (पूरे रुपये में)
1. प्राय शेष कर्मचारियों का अंशदान :			1987-88 वर्ष के दौरान अंशदाताओं की गई अभावगी !	
i. सामान्य सविष्य निधि	19,55,16,098.96		i) सामान्य सविष्य निधि	4,33,01,376.60
ii. अंशदायी सविष्य निधि	3,58,056.95	16,33,75,955	ii) अंशदायी सविष्य निधि	42,751.00
	16,53,75,055.11		अनुवर्त	4,35,44,127.30
2. वर्ष के दौरान अर्थ कर्मचारियों का अंशदान :			i) सामान्य सविष्य निधि	20,40,08,141.01
i. सामान्य सविष्य निधि	6,57,88,789.98		ii) अंशदायी सविष्य निधि	कुछ नहीं
ii. अंशदायी सविष्य निधि	22,288.00	6,38,11,073		20,40,08,141.01
3. अभाव क. घपने केयर पर			*क) पेंशन प्राप्ति निधि	
i. सामान्य सविष्य निधि	2,19,05,794.67		i. सामान्य सविष्य निधि	
	3,928.90	2,10,98,722	ii अंशदायी सविष्य निधि	1,43,591
	2,19,98,722.57		विभिन्न प्रकार की राशि	25,26,52,269.51
ख. निगम के शेयर पर अंशदायी सविष्य निधि	कुछ नहीं			
4. 1987-88 वर्ष के लिए निगम का अंश- दान शेयर				
5. प्रस्तावित बोनस	कुछ नहीं			
i. सामान्य सविष्य निधि	1,016.00	1,016		
ii. अंशदायी सविष्य निधि	कुछ नहीं			
6. बचत : विभागाध्यक्ष में अंतर्भूत राशि				
क. घदायी जमा राशि				
i. सामान्य सविष्य निधि-	कुछ नहीं			
ii. अंशदायी सविष्य निधि	कुछ नहीं			

* 201/- रु. का घपना राजपत्र की त्रुटि के कारण है।

आय तथा अदायगियों के संबंध में क्रमशः 25,058.50 तथा 12,772.95 रुपये का निवल अंतर निम्न प्रकार है :—

आय	सामान्य भविष्य निधि		अंशदायक भविष्य निधि	
	रुपये	पैसे	रुपये	पैसे
क. 31-3-87 की स्थिति के अनुसार अंतर	(-)	19,877.40	(-)	244.25
वर्ष के दौरान समायोजन	(+)	45,240.65	(-)	1,750.00
	(+)	2,201.00		
31-3-88 की स्थिति के अनुसार निवल अंतर	(+)	26,564.25	(-)	1,505.75
आय का निवल अंतर (क) रुपये 25,058.50 लेखों में अधिक				
ख. 31-3-87 की स्थिति के अनुसार अंतर	(+)	3,033.85	(-)	4,396.00
वर्ष के दौरान किया गया समायोजन	(+)	36,151.00	(-)	22,010.00
31-3-88 की स्थिति के अनुसार निवल अंतर	(+)	39,184.95	(-)	26,412.00
अदायगियों में निवल अंतर	(ख)	(+)	12,772.95	
शुद्ध निवल अंतर ("क" - "ख")	(+)	21,285.55		

कर्मचारी राज्य बीमा निगम के 1987-88 वर्ष के लेखों की संशोधित लेखा परीक्षा रिपोर्ट

क. रा. बी. निगम की 1987-88 वर्ष की लेखा-परीक्षा रिपोर्ट

क. रा. बी. अधिनियम, 1948 के अधीन क. रा. बी. निगम की स्थापना बिद्युत शक्ति का प्रयोग करने तथा 20 से अधिक व्यक्तियों को नियोजित करने वाले सभी घर मौसमी कारखानों के कर्मचारियों की बीमारी प्रभुति तथा रोजगार छोट की प्राकृतिकताओं में झुंके हितसामों की व्यवस्था करने के लिए की गई थी। योजना में 1600/- रुपये तक मासिक मजदूरी पाने वाले कर्मचारियों को शामिल किया गया है। योजना में चिकित्सा देख-रेख तथा उपचार, बीमारी, प्रभुति तथा रोजगार छोट के दौरान नकद हितसामों और रोजगार छोट के कारण बीमाकृत व्यक्तियों

की अत्यंत पर आश्रितों को पेंशन और बीमाकृत व्यक्तियों की प्रत्येक पर व्यय के संबंध में अदायगियों की व्यवस्था की गई है। इस योजना के अधीन कर्मचारियों के परिवार के सदस्यों के लिए भी चिकित्सा देख-रेख की व्यवस्था की गई है।

निगम को केन्द्रीय सरकार से किसी प्रकार की वित्तीय सहायता प्राप्त नहीं होती है। मुख्यतः में लेखों का संयोजन 25 लेखों से आय तथा व्यय लेखों की प्राप्ति पर किया जाता है। निगम में प्रशासनिक प्रयोजनों के लिए 16 क्षेत्रीय कार्यालय तथा 3 उप-क्षेत्रीय कार्यालय हैं।

1986-87 तथा 1987-88 वर्षों में निगम की आय व्यय का विश्लेषण नीचे दिया गया है :—

आय	1986-87	1987-88	व्यय	1986-87	1987-88
(लाख रुपयों में)			(लाख रुपयों में)		
1	2	3	4	5	6
नियोजकों तथा कर्मचारियों के अंशदान			1. बीमाकृत व्यक्तियों तथा उनके परिवारों को हितसाम		
आय (अंशदान पर व्याज सहित)	32,340	32,412	(क) चिकित्सा हितसाम		
2. व्याज तथा सामांश	4,092	5,227	(i) चिकित्सा उपचार तथा प्रभुति सविधायों की व्यवस्था पर होने वाले खर्चों में निगम के शेयर के रूप में राज्य सरकारों को अदायगी।	10,700	9,936
3. मुआवजे	273	203	(ii) चिकित्सा देखरेख और प्रभुति सुविधाएं (निगम द्वारा प्रत्यक्ष रूप में किए गये खर्च)	861	1,135
4. सहायता अनुदान	-	12	(ख) बीमाकृत व्यक्तियों तथा उनके परिवारों को निगम द्वारा दिए गए नकद एवं अन्य हितसाम	10,361	10,452
5. चिकित्सा हितसामों की बावत शुरू में निगम द्वारा किए गए व्यय में हिसाबी प्रशासन का शेयर	45	470	2. प्रशासनिक खर्च	3,441	4,023
6. किराया घर तथा कर सहित विविध	1,171	1,211	3. अस्पताल एवं शोधालय	539	588
			4. पूंजीगत निर्माण आरक्षित निधि तथा आपान आरक्षित निधि	1,746	1,620
			व्यय की तुलना में अधिक आय	10,273	11,781
जोड़ :-	37,921	39,535		37,921	39,535

2. आकस्मिकता आरक्षित निधि

नियम ने कर्मचारी राज्य बीमा अधिनियम, 1948 तथा इसके अंतर्गत बनाये गए नियमों और विनियमों का उल्लंघन करते हुए और संबंधित प्रशासनिक संज्ञात्मक के विशिष्ट अनुमोदन के बिना व्यय में अकस्मिकता या अनामान्य वृद्धि के कारण किसी संभावित प्रकट घाटे को निपटारा करने के मुख्य उद्देश्य से 1973-74 में एक आपात आरक्षित निधि बनाई।

इस आरक्षित निधि से प्रत्येक वर्ष आय का 20 % जमा किया जाना था बशर्ते कि कम से कम एक करोड़ रुपये की राशि या एक करोड़ रुपये से कम आय होने पर पूरी राशि जमा की जाए। नवम्बर, 1986 में यह निर्णय लिया गया कि आकस्मिकता आरक्षित निधि में जमा राशि 75 करोड़ रुपये तक सीमित होगी। 1986-87 वर्ष में निधि में जमा राशि 75 करोड़ रुपये तक पहुँच गई परन्तु आकस्मिकता आरक्षित निधि के संचालन के लिए गत वर्षों में कोई नियम नहीं बनाये गये जबकि ये नियम निधि के सृजन के समय ही बनाये जाने और सक्षम प्राधिकारी द्वारा अनुमोदित कराए जाने चाहिए थे।

नियम ने बताया (जुलाई, 88) कि 1973-74 से ही इस आकस्मिकता आरक्षित निधि में से निधियों को उपयोग के लिए कभी कोई आकस्मिकता नहीं हुई। इससे स्पष्ट है कि इस तरह की आरक्षित निधि के सृजन की कोई आवश्यकता नहीं थी।

3. पूंजीगत निर्माण आरक्षित निधि के अंतर्गत भारी संयंत्र (88.55 करोड़ रुपये)

स्थायी समिति की 15 फरवरी, 82 को हुई बैठक में लिए गए निर्णय के अनुसार कर्मचारी राज्य बीमा नियम वित्तीय वर्ष में कर्मचारी राज्य बीमा अंशदान से प्राप्त कुल आय का 5 % पूंजीगत निर्माण आरक्षित निधि में अन्तर्गत करता है। भूमि के अर्जन और अस्पतालों, औद्योगिकों तथा निगम कार्यालयों के निर्माण पर हो होने वाला व्यय इस निधि से पूरा किया जाता है।

पिछले तीन वर्षों के अंत में पूंजीगत निर्माण आरक्षित निधि के अंतर्गत उपलब्ध निधियों की तुलनात्मक स्थिति निम्न प्रकार है :-

(करोड़ रुपये में)

1985-86	31-03-1986	76.70
1986-87	31-03-1987	81.67
1987-88	31-03-1988	88.55

पूंजीगत निर्माण आरक्षित निधि अस्पतालों तथा औद्योगिकों आदि के निर्माण के लिये बनाई गई थी मगर इस निधि में 88.55 करोड़ रुपये का भारी संयंत्र से पता चलता है कि निधि का उस उद्देश्य के लिए इस्तेमाल नहीं किया जा रहा है जिसके लिए यह निधि बनाई गई थी। हेतुम निगम भारी संयंत्र तथा इसके भाषी उपयोग की योजना के लिए कोई कारण नहीं बता सका।

नियम ने बताया (नवम्बर, 88) कि 31 मार्च, तक कुल विस्तार 290 करोड़ रुपये के स्वीकृत प्रायश्चित्तों में से निगम 207 करोड़ रुपये मुक्त कर चुका है। 88.55 करोड़ रुपये का संयंत्र लक्ष्यक्षेत्र वेदता को पूरा करने मात्र के लिए ही पर्याप्त है। निगम के अनुसार निर्माण, प्रसार और विस्तार के कार्यक्रम को लागू को पूरा करने के लिए यह आवश्यक है कि प्राप्ति की धन व्यवस्था की जाये।

4. पेनालियाँ तथा जमा

पूंजीगत व्यय के लिए पेनाली दी गई राशि (5,069.56 लाख रुपये) यह राशि राज्य सरकारों राज्य लोक निर्माण विभागों आदि 1987-88 की एक भूमि की खरीद तथा अस्पतालों, औद्योगिकों एवं अन्य भव्य

के निर्माण के लिए दी गई पेनालियों की अनुमोदित राशि की शुरुआत है। निगम द्वारा रखी गई बाउंड्री के अनुसार कुल बकाया राशि के वर्षवार अंशों निम्न प्रकार है :-

वर्ष	राशि (लाख रुपये में)
1978-79 तक	381.15
1979-80	74.39
1980-81	256.13
1981-82	193.74
1982-83	287.51
1983-84	322.12
1984-85	422.45
1985-86	553.49
1986-87	946.98
1987-88	630.85
	1,030.65
खोड़	5,068.81
खोड़ :- लेखों तथा बाउंड्री के बीच अंतर	0.75
लेखों के अनुसार	5,069.56

नियम ने बताया (अगस्त, 1988) कि 0.75 लाख रुपये का अंतर गलत वर्गीकरण के कारण है और अगस्त, 88 के लेखों में ठीक कर दिया गया है। 31 मार्च, 1988 की स्थिति के अनुसार 5,068.81 लाख रुपये की बकाया पेनाली राशि के बारे में इस प्रकार है :-

	(लाखों रुपये में)
पूरे लिये गए कार्य	2,683.12
निर्माणधीन कार्य	2,007.10
भूमि	378.59
	5,068.81

इन पेनालियों/जमा राशि के समायोजन न होने का मुख्य कारण संबंधित एजेंसियों से पूरे किए गए कार्यों के संबंध में व्यय विवरण और खरीदी गई भूमि के धित्री विलेज/मूल रसीदें प्राप्त न होना है तथाकि निगम ने 60.04 करोड़ रुपये की बकाया राशि में से वर्ष के दौरान केवल 9.26 करोड़ रुपये की राशि समायोजित कर ली है।

5. निगम के कार्यालय भवनों और अस्पतालों/औद्योगिकों की मरम्मत और रख-रखाव तथा विशेष मरम्मत के लिए पेनालियाँ

(क) वार्षिक लेखों की अनुसार 'क' के अनुसार निगम के कार्यालय भवनों और अस्पतालों तथा औद्योगिकों की मरम्मत तथा रख-रखाव के लिये राज्य सरकारों/राज्य लोक निर्माण विभागों आदि को दी गई पेनालियों के संबंध में 31 मार्च, 1988 की स्थिति के अनुसार क्रमशः 138.40

लाख तथा 784.75 लाख रुपये की राशि बकाया थी। बकाया पेशगियों के वर्षवार धोरा नीचे दिये गये हैं :—

वर्ष	कार्यालय	अस्पताल तथा शोधालय	कुल (लाख रुपयों में)
1979-80 तक	15.95	77.92	93.87
1980-81	5.20	40.55	45.75
1981-82	5.95	37.22	43.17
1982-83	10.25	28.68	38.83
1983-84	14.32	29.08	43.40
1984-85	12.90	133.03	145.93
1985-86	16.31	48.59	64.90
1986-87	18.41	121.44	139.85
1987-88	39.14	268.51	307.65
	138.43	784.92	923.35
लेखों के आंकड़े	138.40	784.75	
अन्तर	9.3	17	

वर्ष 1979-80 से पूर्व के वर्षवार धोरे उपलब्ध नहीं हैं। आंकड़ों के अर्थ, वार धोरे से पता चलता है कि (क) निगम के कार्यालयों और (ख) अस्पतालों/शोधालयों की मरम्मत एवं रखरखाव के लिए पेशगियों धोरे के अंतर्गत क्रमशः 0.03 और 0.17 लाख रुपये का अन्तर है जिसका समाधान करने की आवश्यकता है।

(ख) निगम के कार्यालयों तथा अस्पतालों/शोधालयों की विशेष मरम्मत के लिए पेशगियों के संबंध में क्रमशः 36.59 लाख रुपये तथा 169.78 लाख रुपये की राशि बकाया थी। इन आंकड़ों का वर्षवार धोरा नीचे दिया गया है :—

(राशि लाख रुपयों में)

वर्ष	कार्यालय	अस्पताल/शोध- घालय
1982-83	—	4.09
1983-84	—	12.17
1984-85	1.73	14.81
1985-86	1.87	31.44
1986-87	2.00	63.15
1987-88	31.00	44.12
योग	36.59	169.78

इन पेशगियों को समाप्त/समायोजित करने के लिए इस संगठन द्वारा ठेग प्रयत्न नहीं किये गये।

6. विविध जमा

31 मार्च, 1988 की स्थिति के अनुसार (iv) विविध जमा धोरे के अंतर्गत 95.30 लाख रुपये का क्रेडिट धोरे समायोजित पड़ा हुआ था

(वर्षवार धोरा नीचे दिया गया है यह धोरे निम्न धोरे के अंतर्गत नुक किए गए आंकड़ों के संबंधी प्रभाव का गुरुक है :—

(लाख रुपयों में)

(क) अवर्गीकृत प्राप्तियाँ	91.83
(ख) (—) अवर्गीकृत अदायगियाँ	(—) 2.54
जोड़ :—	89.29
(ग) अंतर्राष्ट्रीय श्रम संगठन से प्राप्त जमा राशि	4.57
(घ) अतिरिक्त सहभाई धोरे की जमा राशि की वापिस अदायगी	(—) .63
(ङ) विविध जमा	2.06
	95.29
वर्षवार धोरा निम्न प्रकार का :—	
1985-86 तक	75.74
1986-87	14.21
1987-88	5.34
	95.29
लेखों के अनुसार	95.30
अन्तर	0.01

वर्ष 1985-86 से पूर्व का वर्ष का वर्षवार धोरा निगम के पास उपलब्ध नहीं है। इस लिए यह सत्यापित नहीं हो सका कि अवर्गीकृत प्राप्तियाँ और अदायगियाँ कम से ऊपर के अंतर्गत पड़ी हैं।

आज भी तथा वारिक लेखों के आंकड़े के बीच (—) 0.01 लाख रुपये का अन्तर अभी भी समाधान के सिधे पड़ा है।

निगम ने बताया (अप्रैल, 1988) कि क्रेडिट/डेबिट से संबंधित कार्य करने वाले बैंकों से विवरण प्राप्त न होने के कारण उन्हें अवर्गीकृत पड़ी है। बैंक को इस मामले में आवश्यक अप्रदेश जारी कर के अनुवर्ती कार्रवाई की जा रही है।

7. अन्य विविध पेशगियाँ 61,10,779 रुपये

31 मार्च, 1988 की स्थिति के अनुसार विविध पेशगियों का बकाया धोरे 61.11 लाख रुपये दिखाया गया है। इसमें 1.72 लाख रुपये धोरे जमान से संबंधित मामलों तथा 59.39 लाख रुपये विविध आकस्मिक पेशगियों से संबंधित है। विविध आकस्मिक पेशगियों का वर्षवार धोरा नीचे दिया गया है :—

वर्ष	राशि (लाख रुपयों में)
1979-80 तक	5.36
1980-81	1.70
1981-82	1.65
1982-83	1.19
1983-84	0.96
1984-85	1.75
1985-86	5.14
1986-87	11.78
1987-88	29.86
जोड़	59.39

भाषाओं तथा सेवाओं के लिए विभिन्न पार्टियों का और छोटे छोटे खर्चों आदि के लिये विभिन्न क्षेत्रीय कार्यालयों को पेशगियों दी गई। विभिन्न पार्टियों से विस्तृत समायोजन लेखे अभी भी जाने जाते हैं।

कोटी/गज के मापनों के शीर्ष के अन्तर्गत मुक्त किये गये 1.72 लाख रुपये के संबंध में यह बताया गया कि मामलों के ज्योरे मुसालगी में उपलब्ध नहीं हैं और ये ज्योरे क्षेत्रीय कार्यालय में रखे जाते हैं।

8. अक्षत सम्पत्ति भूमि तथा भवन के अछूते रिकार्ड

31 मार्च, 1989 की स्थिति के अनुसार कुलन पत्र में भूमि तथा भवनों पर 15,565.47 लाख रुपये दिखाये गये हैं। भूमि तथा भवनों का रजिस्टर पूर्ण नहीं है, जिस के फलस्वरूप कुलन पत्र में दिखाई गई परिसम्पत्तियों के भूम्य का लेखा परीक्षा में सत्यापन नहीं किया जा सका। यह पिछले वर्षों की लेखा परीक्षा रिपोर्टों में भी बताया गया था। वर्ष 1985-86 तथा 1986-87 के लेखा परीक्षा के दौरान यह बताया गया था कि समेकित रजिस्टर तैयार किया जा रहा है जो कि आगू लेखा परीक्षा के दौरान भी नहीं दिखाया गया।

9. लेखा परीक्षा प्रमाण पत्र प्राप्त न होने के कारण समायोजन के लिये वाली 50,935.64 लाख रुपये की लेखागत भवायगी।

सीमांकृत भूमितियों तथा उन के परिवारों को दिये गये बिजिस्मा हितवाधों की लागत के संबंध में विभिन्न राज्य सरकारों को उन के शेष के रुपये में 1987-88 तक लेखागत भवायगी शीर्ष के अन्तर्गत 50,935.64 लाख रुपये की राशि समायोजन के लिए बाकी थी। इस राशि में से 1986-87 तक की अवधि के लिए लेखा परीक्षा प्रमाण पत्रों द्वारा समर्थित लेखा परीक्षित विवरण प्राप्त न होने के कारण 39,936.46 लाख रुपये की राशि बकाया थी जिसके ज्योरे नीचे दिये गये हैं :—

वर्ष	बकाया राशि (लाख रुपये में)
1973-74	7.20
1974-75	9.00
1975-76	112.74
1976-77	—
1977-78	267.38
1978-79	1,822.96
1979-80	1,425.87
1980-81	1,806.55
1981-82	4,246.30
1982-83	4,080.77
1983-84	4,739.49
1984-85	5,103.01
1985-86	6,745.89
1986-87	9,569.31
जोड़	39,936.96

लेखा परीक्षा प्रमाणपत्रों द्वारा समर्थित लेखा परीक्षित विवरण प्राप्त करने के लिये कोई प्रभावी कदम नहीं उठाये गये। 1973-74 से 1981-82 तक के वर्षों से संबंधित लेखागत पेशगियों में पिछले 3 वर्ष के दौरान कोई समायोजन नहीं किया गया। 1987-88 वर्ष के दौरान 42,067.86 रुपये में से केवल 2,131.40 रुपये का समायोजन किया गया।

10. अंशदान का बकाया :

कारखानों/स्थापनाओं के नियोजकों/कर्मचारियों से वसूली-योग्य अंशदान के बकायों की स्थिति सभी 20 क्षेत्रीय कार्यालयों/उप क्षेत्रीय कार्यालयों के संबंध में उपलब्ध थी। 26,902 कारखानों/स्थापनाओं के नियोजकों/

कर्मचारियों से वसूली के लिये कुल मिलाकर 9,284.00 लाख रुपये की राशि प्रति देय थी। बकाया के विवरण नीचे दिये गये हैं :—

क्रम सं.	राज्य-क्षेत्र/उप क्षेत्र	वसूलकर्ता कर्मचारियों/ स्थापनाओं/ कारखानों की संख्या	अंशदान का बकाया (लाख रुपयों में)
1.	आन्ध्र प्रदेश	2,351	471.14
2.	असम	560	71.92
3.	बिहार	915	476.21
4.	दिल्ली	1,200	139.61
5.	गुजरात	1,074	185.51
6.	हरियाणा	1,841	310.28
7.	कर्नाटक	1,785	368.77
8.	केरल	2,281	506.18
9.	गुज्य प्रदेश	999	801.59
10.	बम्बई	2,766	1,190.38
11.	नागपुर	297	134.48
12.	पूना	1,846	197.61
13.	गोवा	87	18.21
14.	उड़ीसा	222	67.05
15.	पंजाब	1,922	358.40
16.	राजस्थान	1,195	329.67
17.	तमिलनाडु	2,903	508.90
18.	पांडिचेरी	50	4.57
19.	उत्तर प्रदेश	444	680.74
20.	पश्चिमी बंगाल	2,163	2,552.82
जोड़		26,902	9,284.00

निगम ने बताया (सितम्बर, 1987) कि केन्द्र और संबंधित राज्य सरकारों का सहयोग प्राप्त करके बकाया राशि को काफ़ी कम कर दिया जाएगा। यह भी देखा गया कि 1987-88 के दौरान स्थापनाओं की संख्या में 1,789 की सीमान्त वृद्धि की तुलना में बकाया राशि बढ़कर 1,750 लाख रुपये हो गई थी।

11. हज़ाने

कर्मचारी राज्य बीमा निगम अधिनियम तथा इसके अधीन बनाये गये नियमों के अन्तर्गत निगम उन नियोजकों से बकायों की राशि के बराबर तक हज़ाने वसूल करने के लिये सशक्त है जो निर्धारित अवधि के अन्दर अंशदान नहीं देते हैं। ये हज़ाने भू-राजस्व के बकायों की तरह वसूल किये जा सकते हैं। नीचे दिये गये वर्षवार ज्योरे के अनुसार 31-3-88 को बिहार क्षेत्र से प्राप्त राशि को छोड़कर 1,582.87 लाख रुपये की राशि हज़ानों के रूप में विभिन्न राज्यों/क्षेत्रों में बकाया थी :—

वर्ष	राशि (लाख रुपये में)
1	2
1975-76	0.57
1976-77	27.59
1977-78	66.06
1978-79	152.07
1979-80	170.25
1980-81	253.51
1981-82	166.59
1982-83	162.77
1983-84	45.04

1	2
1984-85	103.95
1985-86	118.91
1986-87	208.11
1987-88	105.65
जोड़	1,582.87

पिछले वर्ष के 1,094 लाख रुपये के आंकड़ों की तुलना में बताया राशि में 488.87 लाख रुपये की वृद्धि हुई।

डिक्री राशि

नियोजक से अंशदान की दसूची न होने की स्थिति में निगम कर्मचारी राज्य बीमा अधिनियम, 1948 की धारा 75 (2) के अन्तर्गत वृत्तवर्ती नियोजकों के विरुद्ध कर्मचारी बीमा स्थापनाओं से डिक्री जारी कराने के लिए सशक्त है। 31 मार्च, 1988 की स्थिति के अनुसार क. रा. बी. नि. के पास 3486 लाख रुपये की कुल डिक्रियां बताया थी जिनके वर्षवार ग्योरे नोवे दिए गये हैं :—

	सामलों की संख्या	राशि (लाख रुपये में)
आदि शेष	408	37.43
वर्ष के दौरान जोड़े गये	6	0.03
	414	37.46
घटाएँ: वसूली	31	2.60
	383	34.86

डिक्री का वर्ष

	राशि (लाख रुपयों में)
1970-71	13.65
1971-72	0.20
1972-73	1.70
1973-74	0.85
1974-75	1.21
1975-76	0.79
1976-77	4.34
1977-78	0.97
1978-79	0.03
1979-80	1.26
1980-81	0.14
1981-82	0.23
1982-83	3.38
1983-84	0.29
1984-85	0.90
1985-86	1.37
1986-87	3.49
1987-88	0.06
जोड़	34.86

31-3-88 की स्थिति के अनुसार 2 लाख रुपये से अधिक डिक्री राशि होने वाले राज्यों के राज्यवार आंकड़े निम्न प्रकार हैं :—

1. गुजरात	2.49
2. मध्य प्रदेश	8.23
3. राजस्थान	9.30
4. उत्तर प्रदेश	8.17
5. पश्चिमी बंगाल	2.50
6. बम्बई	2.36

यह भी देखा गया कि निगम द्वारा अनुवर्ती कार्रवाई की कमी के कारण मध्य प्रदेश और पश्चिमी बंगाल में डिक्री राशि पिछले तीन वर्षों से वही है। निगम ने बताया (अक्टूबर, 1988) कि डिक्रियों के निष्पादन के लिए अनुवर्ती कार्रवाई तत्परता पूर्वक की जा रही है।

13. खाली भूखंडों पर खर्च की गई 182.06 लाख रुपये की निधियां खर्च करना

31 मार्च, 1988 की स्थिति के अनुसार कर्मचारी राज्य बीमा निगम के अस्पताल, औषधालय तथा क्षेत्रीय कार्यालयों के निर्माण के लिए 1985-86 की अवधि के दौरान निगम द्वारा खरीदे गए 1986-87 की अवधि से छा परीक्षा रिपोर्ट में उल्लिखित 48 भूखंडों में से 43 भूखंड खाली पड़े हुए हैं निगम ने भूखंड खरीदने और इनकी चार दीवारी के निर्माण पर 182.06 लाख रुपये की राशि खर्च की है।

कारण	खरीद की अवधि	भूखंडों की संख्या	सागत (लाख रुपयों में)
1. भूमि पर अनुविहित कब्जा होना	1960	1	1.88
2. निगम को अभी तक कब्जा नहीं मिला	1982-85	6	10.65
3. भूमि उपयुक्त न होना	1983-85	2	10.57
4. भूमि पर मुकद्दमे बाजी होना	1965-85	5	11.73
5. नक्शे तथा प्राक्कलन प्राप्त न होना	1976-85	18	100.41
6. नक्शे तथा प्राक्कलन की जाँच पूरी न होना	1981-86	9	36.00
7. कर्मचारी राज्य बीमा योजना अभी तक कार्यान्वित न होना	1966-71		10.32
	जोड़	43	182.06

14. चार दीवारी के निर्माण पर 68,700/-रुपये का निष्फल व्यय

दिसम्बर, 1979 में क.रा.बी. निगम ने अनुमोदित योजना में भूमि का सत्यापन किए बिना औषधालयों तथा स्टॉफ क्वार्टरों के निर्माण के लिए फरीदाबाद कम्पलेक्स प्रशासन से मुफ्त में एक भूखंड अर्जित किया। मई, 1980 में चार दीवारी के निर्माण के लिए केन्द्रीय लोक निर्माण विभाग को 68,700 रुपये की प्रदायी की गई, अक्टूबर, 1980 में कार्य शुरू होने पर स्थानीय निवासियों ने विरोध किया कि मूल नक्शे में यह भूखंड "पार्क" के लिए निर्धारित किया गया है। मामले को न्याय निर्णय के लिए भेजा गया। न्यायालय ने अपने अन्तरिम आदेश दिनांक 13-3-81 में क.रा.बी. औषधालय और स्टॉफ क्वार्टरों के निर्माण का कार्य रुकवा दिया। उस समय तक चार दीवारी के निर्माण का कार्य लगभग पूरा हो चुका था। न्यायालय ने पुनः अपने आदेश दिनांक 20-1-82 द्वारा विवादग्रस्त भूमि पर कोई भी निर्माण कार्य करने से मना कर दिया। उपर्युक्त अन्तरिम आदेशों के बावजूद क.रा. निगम ने निर्माण कार्य चालू रखा और जनवरी, 81 में इस कार्य के लिए 7,99,294 रुपये की राशि मंजूर की जिसमें से निर्माण कार्य शुरू करने के लिए मार्च, 1983 में 2 लाख रुपये की राशि केन्द्रीय लोक निर्माण विभाग को पेशगी दे दी। न्यायालय ने अपने अन्तिम आदेश में मई, 1983 क. रा. बी. निगम को विवादग्रस्त भूमि पर बनाए गए निर्माण कार्य को एक महीने के अन्दर हटाने और पार्क का पुनः अपनी मूल स्थिति में रखने का निर्देश दिया। केन्द्रीय लोक निर्माण विभाग ने अभी तक 2,68,700 रुपये का समा-

भोग्य सेवा प्रस्थान नहीं किया है। यदि क.रा.बी. निगम ने भूखंड का कब्जा लेने से पहले भूमि तल्ले से भूखंड का उपयोग शर्त्यापित कर लिया होता तो चार दीवारी के निर्माण पर कुल मिलाकर खर्च की गई 60,700 रुपये की पूरी राशि निष्फल नहीं होती।

निगम ने बताया अक्टूबर, 1988 में निगम के कानूनी सलाहकार ने राय दी है कि न्यायालय की निषेधाज्ञा केवल उस भूमि के संबंध में है जहां कोई निर्माण कार्य आरम्भ नहीं हुआ है। अतः तक उस भूमि का संबंध है जिस पर क.रा.बी. निगम निर्माण कार्य आरम्भ कर चुका है, निगम के अनुसार यह उस पर निर्माण कार्य लागू रख सकता है। तदनुसार, निगम ने निर्माण कार्य के लिए 2 लाख रुपये की राशि मुक्त की थी।

15. क.रा.बी. योजना अभी तक कार्यान्वयन के लिए अधिसूचित न होने के बावजूद दुर्गापुर में भूमि के अर्जन तथा चार दीवारी के निर्माण पर 10.62 लाख रुपये का निष्फल खर्च।

नवम्बर, 1965 में निगम ने दुर्गापुर में 100 बिस्तर वाले अस्पताल स्टाफ क्वार्टरों और एक सेवा औपशालय के निर्माण के लिए 1,54,500 रुपये की लागत से 30 एकड़ का एक भूखंड खरीदा जब कि दुर्गापुर में क.रा.बी. योजना लागू नहीं हुई थी। यह भूमि वास्तविक आवश्यकता से अधिक पाई जाने के कारण निगम ने राज्य सरकार को अक्टूबर, 78 में पत्र लिखा कि 10.5 एकड़ फ़ालतू भूमि वापिस ले ली जाए। बाद में मार्च, 83 में निगम ने संपूर्ण भूखंड को अपने पास रखने और भूखंड पर चार दीवारी का निर्माण करने का निर्णय लिया। हालांकि निगम को यह ज्ञात था कि दुर्गापुर में क.रा.बी. योजना लागू होने की कोई संभावना नहीं है लेकिन जून, 1986 में राज्य लोक निर्माण विभाग को चार दीवारी के निर्माण के लिए 6,07,700 रुपये की निधियां मुक्त कर दी गईं। निगम ने अक्टूबर, 1986 में स्थिति की समीक्षा की और यह निष्कर्ष निकाला कि दुर्गापुर में निकट भविष्य में योजना लागू होने की कोई आशा नहीं है। सभी से उस भूखंड को बेचने का प्रस्ताव निगम के विचाराधीन है।

जब दुर्गापुर में योजना लागू होने की कोई आशा ही नहीं थी तो 1,54,500 रुपये की राशि भूमि की कीमत के रूप में देने के अलावा 6,07,700 रुपये की राशि चार दीवारी के निर्माण पर खर्च करने की कोई तुक नहीं थी। इस प्रकार 10.62 लाख रुपये की राशि ब्लाक हो गई।

16. अम्बोला में क.रा.बी. औपशालय का निर्माण 81,605 रुपये 24 वर्ष से अधिक समय से अप्रयुक्त/असमायोजित पड़े रहता।

क.रा.बी. निगम ने 1962 में अम्बोला में एक क.रा.बी. औपशालय तथा स्टाफ क्वार्टरों के निर्माण के लिए बिहार सरकार के प्रस्ताव पर सहमति दे दी। बिहार सरकार ने 4.60 एकड़ का एक भूखंड मुफ्त देने की पेशकश की। 1963 में 2,32,250 रुपये के प्रावधान संभूर किए गए जिन्हें परिपोषित करके 1,94,411 रुपये कर दिया गया। स्वीकृत प्रावधान में से 92,172 रुपये की राशि 4 मार्च, 1964 को राज्य लोक निर्माण विभाग को मुक्त कर दी गई।

नवम्बर, 1969 में जब निर्माण कार्य चल रहा था तो बिहार सरकार ने क.रा.बी. निगम को सूचित किया कि अम्बोला में एकमात्र कारखाना स्थायी रूप से बन्द कर दिया गया है और इस प्रकार औपशालय के निर्माण का कार्य रोक देना पड़ा। सभी से क.रा.बी. निगम उस भूखंड और संरचना को बेचने की कोशिश कर रहा है लेकिन इस मामले में कोई सफलता प्राप्त नहीं हुई है।

मार्च, 1964 में राज्य लोक निर्माण विभाग को दी गई निधियों 72,172 रुपये में से राज्य लोक निर्माण विभाग के केवल 10,567 रुपये का समायोजन लेखा प्रस्तुत किया है। शेष 81,605 रुपये की राशि 3372 GI/88-8.

24 वर्षों से अधिक समय से राज्य लोक निर्माण विभाग के पास अप्रयुक्त/असमायोजित पड़ी है।

निगम ने बताया (अक्टूबर, 88) कि मामले में तत्परतापूर्वक कार्रवाई की जा रही है और यदि कोई बाकसी राशि प्राप्त नहीं हुई तो 81,605 रुपये की बसूली चिकित्सा श्रितसाम के लिए राज्य सरकार का देय "निष्कास" श्रदागरी में से की जाएगी।

स्थान : नई दिल्ली

दिनांक :

निवेशक, लेखा परीक्षा

केन्द्रीय राजस्व,

नई दिल्ली।

क.रा.बी. निगम ने 1987-88 वर्ष के लेखों की लेखा-परीक्षा की प्रगति का सूचक विवरण :

1. वार्षिक लेख प्राप्त होने की तारीख (अप्रैल में) 9-6-88
2. लेखा परीक्षा के संचालन की श्रद्धा 2-5-88 से 23-5-88
लेखों की लेखा परीक्षा प्रमाणन की श्रद्धा 14-7-88 से 10-8-88
3. निरीक्षण रिपोर्ट प्रस्तुतित विशेष लेखा परीक्षा रिपोर्ट मुख्यालय में प्राप्त होने की तारीख 16-8-88 से
4. निरीक्षण अधिकारी से वापिस प्राप्त होने की तारीख 25-8-88
निरीक्षण रिपोर्ट/विशेष लेखा परीक्षा पर चर्चा 10-8-88
5. लेखा परीक्षा से संबंधित संगठन से प्राप्त अनिरीक्षित सूचना 21-10-88
6. लेखा परीक्षा से संबंधित संगठन को समौदा लेखा परीक्षा रिपोर्ट भेजने की तारीख 27-9-88
7. लेखा परीक्षा से संबंधित संगठन की टिप्पणियां प्राप्त होने की तारीख 20-10-88
8. सरकार को अंतिम लेखा परीक्षा रिपोर्ट भेजने की तारीख

(रेवती बेदी)

उप निवेशक परीक्षा

लेखा परीक्षा प्रमाणपत्र

मैंने कर्मचारी राज्य बीमा निगम के 1987-88 वर्ष के लेखों और तुल्य पत्र की जांच कर ली है। मुझे सभी अपेक्षित सूचना और स्पष्टीकरण प्राप्त हो गए हैं और संलग्न लेखा परीक्षा प्रमाणपत्र में अभ्युक्तिओं के अधीन रखते हुए अपनी लेखा परीक्षा के परिणामस्वरूप मैं प्रमाणित करता हूं कि मेरी राय में और मेरी मर्यादित जानकारी और मुझे दिए गये स्पष्टीकरण और निगम की बहिनियों में किए गए उल्लेख के अनुसार लेख और तुल्य पत्र उपयुक्त रूप से तैयार किए गए हैं जो कि निगम के कार्यकलापों का सही और उचित रूप प्रस्तुत करने हैं।

स्थान : नई दिल्ली

दिनांक 2-11-1988

निवेशक,

लेखा परीक्षा-1

केन्द्रीय राजस्व, नई दिल्ली-2

[सं. जेड-16016/4/88-एस एस-1]

ए.के. भट्टागई, अवसर सचिव

New Delhi, the 30th December, 1988

S.O. 98.—In pursuance of Section 36 of the Employees' State Insurance Act, 1948 (34 of 1948), the audited accounts of the Employees' State Insurance Corporation, together with auditor's report thereon, for the year 1987-88 are hereby published for general information.

EMPLOYEES' STATE INSURANCE CORPORATION Accounts For The Year 1987-88 & Audit Report
EMPLOYEES' STATE INSURANCE CORPORATION

Income and Expenditure Account for
the year ended 31st March, 1988

A. INCOME	Schedule	(Amount in lakhs of rupees)	
		1987-88	1986-87
1. Contribution income (including interest on Contribution).		3,24,11.64	3,23,40.23
2. Interest and dividends		52,27.29	40,92.10
3. Rent, rates and taxes		11,34.01	11,20.45
4. Compensations		2,03.36	2,72.89
5. Grants-in-aid		11.63(a)	—
6. Delhi Administration's share towards medical care initially Incurred by the Corporation		4,70.38	44.69
7. Miscellaneous		76.46	50.64
TOTAL :		3,95,34.77	3,79,21.00
B. EXPENDITURE			
1. Medical benefit	'A'	1,10,71.00	1,15,60.80
2. Cash benefits	'B'	1,04,22.35	1,03,34.15
3. Other benefits	'BB'	27.67	26.30
4. Administrative Expenses			
(a) Superintendence		18,81.05	16,13.36
(b) Field work		15,84.45	13,53.00
(c) Other Charges	'C'	5,57.28	4,74.95
5. Provision for—			
(a) Depreciation of Hospital/Dispensaries		1,17.69	1,07.79
(b) Repairs & Maintenance of Hospitals & Dispensaries		4,70.76	4,31.15
6. Provision for Capital Construction Fund		16,19.88	16,16.46
7. Provision for Contingency Resrve Fund		—	1,29.94
TOTAL :		2,77,54.13	2,76,47.90
C. Netexcess transferred to E.S.I. General Reserve		1,17,80.64	1,02.73,10
GRAND TOTAL :		3,95,34.77	3,79,21.00

(a) Represents grant from Delhi Administration for Post partum programme under the Family Welfare Programme. :

(i) Compensations represent amounts recovered from State Governments under the provisions of the ESI Act in cases where Sickness Benefit to insured persons exceeded the all India average.

(ii) Miscellaneous receipts include.

(a) receipts on account of damages levied on employers for failure to pay dues in time or for non-submission of Contributory particulars, and

(b) recoveries of over-payments and dis-allowances in audit, leave salary and pension contributions, contributions towards Central Government Health Scheme, etc.

(iii) Details of Administrative Expenses are as under :

	1987-88	1986-87
	(Rupees in lakhs)	
(a) Pay and Allowances	30,79.27	26,17.16
(b) Contingencies	3,86.23	3,49.20
(c) Other charges	5,57.28	4,74.95
(See Schedule 'C')		
	40,22.78	34,41.31

The Administrative expenses of Rs 40.22.78 lakhs formed 12.41 % of the total contributions and 14.49 % of the total revenue expenditure.

- (iv) Capital Construction Reserve Fund is for construction of hospitals, dispensaries office, buildings, staff quarters, etc. Five percent of contribution income is credited to the fund annually apart from the interest from investment of the balances in the Fund. Also see note(b) below Balance Sheet.
- (v) Contingency Reserve Fund (earlier known as Emergency Reserve Fund) has been created to meet any emergency situation. In pursuance of the decision of the Standing Committee and the Corporation taken in their meeting on 27/28th November 1986 the balance in this Fund is limited to Rs. 75.00 crores only. As the balance in this Fund was Rs. 75.00 crores, provision during the year has not been made.

(N. VYAS)

New Delhi
Dated 31st May 1988

Financial Adviser and
Chief Accounts Officer

BALANCE SHEET AS ON 31st March, 1988

(Amount in lakhs of rupees)

Source of Funds	Schedule	As on 31-3-1988	As on 31-3-1987
1. E.S.I. General Reserve	'D'	4,65,21.78	3,53,69.45
2. Reserve Funds	'E'	7,11,29.11	6,23,21.99
3. Deposits	'F'	1,17.55	1,50.72
		<u>11,77,68.44</u>	<u>9,78,42.16</u>
Application of Funds			
Fixed Assets			
4. Land & Buildings and staff cars	'G'	1,55,82.83	1,27,21.09
5. Capital Works in Progress	'G'	50,69.56	60,04.42
Investments			
6. (i) Reserve Funds	'H'	4,93,64.55	4,26,25.93
(ii) General Cash Balance	'I'	4,50,78.42	3,34,28.06
Current Assets Advances			
7. Towards repairs and maintenance of buildings	'J'	11,29.53	9,86.92
8. Other advances	'K'	4,59.05	4,09.47
9. Cash in hand/bank (including remittances)		10,84.50	16,66.27
		<u>11,77,68.44</u>	<u>9,78,42.16</u>

NOTES :

(a) Investments comprise the following :

As on 31-3-1988
(Rupees in lakhs)

(i) Earmarked Reserve Funds (Schedule-H)	4,18,64.55
(ii) Contingency Reserve Fund (Emergency Reserve Fund)	75,00.00
(iii) ESI General Reserve (General Cash Balance Schedule-I)	4,50,78.42

TOTAL

9,44,42.97

(b) Cash in bank (Rs. 8,41,51 lakhs as on 31-3-1988)

Comprises the following :

- (i) Balances in Regional Office Accounts No. 1 by way of collections on 30th and 31st March, 1988.
- (ii) Balances in Regional Office/Directorate (Medical) Delhi Accounts No. 2 for Administrative expenses and expenditure on medical care in Delhi.
- (iii) Balances in Local Office Accounts No. 2 for cash benefit payments to insured persons.

New Delhi.
Dated 31st May, 1988.

(N. VYAS)
Financial Adviser and
Chief Accounts Officer

SCHEDULE 'A' MEDICAL BENEFITS

Amount (1986-87)		Amount (1987-88)
1,06,99,57,115	Payments to State Governments as Corporation's share of expenditure on providing medical treatment and maternity facilities, etc.	99,35,64,647
	Expenditure incurred direct on providing—	
8,59,23,288	(i) medical care and maternity facilities by the ESI Corporation in Union Territory of Delhi	11,33,76,425
1,99,470	(ii) Confinement fees to Insured women and wives of insured persons in Maharashtra	1,59,090
1,15,60,79,873	TOTAL	1,10,71,00,162

SCHEDULE 'B' Details of Cash Benefits

Amount (1986-87)	Particulars	Amount (1987-88)
Rs.		Rs.
53,34,46,176	(i) Sickness Benefit	49,20,47,278
8,59,989	(ii) Enhanced Sickness Benefit for family planning	6,46,073
3,96,05,869	(iii) Extended Sickness Benefit	4,24,81,166
2,88,59,277	(iv) Maternity Benefit	3,09,28,818
	(v) Disablement Benefit	
16,95,70,874	(a) Temporary	15,37,52,960
17,80,77,000	(b) Permanent (Capitalised Value)	21,26,42,000
8,16,56,000	(vi) Dependants' Benefit (Capitalised Value)	10,51,66,000
13,39,858	(vii) Funeral Expenses	45,71,259
1,03,34,15,043	TOTAL	1,04,22,5,554

SCHEDULE 'BB'

Amount (1986-87)	Details of Other Benefits	Amount (1987-88)
Rs.		Rs.
886	(i) Expenditure on Rehabilitation of Disabled insured Persons	—
7,19,613	(ii) Medical Boards and Appeal Tribunals	7,45,806
	(iii) Payments to Insured Persons—	
8,16,329	(a) Conveyance charges and/or loss of wages	9,36,377
—	(b) Incidental charges under Family Welfare	—
10,93,237	(iv) Miscellaneous	12,84,395
26,30,065	TOTAL	29,66,578

SCHEDULE 'C'

Details of Administrative Expenses - Other Charges

Amount (1986-87)	Particulars	Amount (1987-88)
Rs.		Rs.
3,82,48,539	(i) Provision for Pension Reserve Fund for Corporation's employees	4,53,86,611
	(ii) Provision for	
51,14,320	(a) Repairs & Maintenance of Office buildings/staff quarters	52,26,480
15,19,760	(b) Depreciation of office buildings, staff quarters, and staff cars	16,43,790
8,96,144	(iii) Legal charges	9,78,264
81,488	(iv) Insurance Courts	26,326
6,18,337	(v) Audit fees	10,01,300
2,04,836	(vi) Publicity and Advertisement	2,78,033
1,02,260	(vii) Leave Salary and pension Contributions	1,10,425
3,83,221	(viii) Contribution to ISSA and other international organisations	9,54,625
4,301	(ix) Corporation's Contribution towards ESIC Contributory Provident Fund	— (a)
35,922	(x) Compassionate grants	31,300
1,83,351	(xi) Provident Fund Deposit linked Insurance Scheme	96,479
43,938	(xii) Charges for maintaining Bank Accounts	(—) 32,313
20,397	(xiii) Losses	19,026
37,824	(xiv) Miscellaneous	8,057
4,74,94,638	TOTAL	5,57,28,403

(a) No provision has been made as all CPF.
Accounts now stand transferred to GPF.

SCHEDULE 'D'

E.S.I. General Reserve Account

Amount (1986-87)		Amount (1987-88)
Rs.		Rs.
2,57,24,67,565	Balance as per last Balance Sheet	3,53,69,45,497
1,02,73,09,932	Add Excess transferred from Income and Expenditure Account	1,17,80,64,415
	Less Adjustment in regard to fourth of five equated instalments towards deficit disclosed in the Sixth Quinquennial Valuation Report on—	
(—) 1,63,10,000	(a) Permanent Disablement Benefit Reserve Fund	(—) 1,63,10,000
(—) 74,79,000	(b) Dependents' Benefit Reserve Fund	(—) 74,79,000
(—) 3,90,43,000	(c) Pension Reserve Fund	(—) 3,90,43,000
3,53,69,45,497	Balance as on 31-3-1988	4,65,21,77,912

SCHEDULE 'E'

Reserve Fund

Particulars	Balance as on 31-3-1987	Provision/credits during the year	Interest on investments	Amount transferred from General Reserve	Total	Payments/adjustments made during the year	Balance as on 31-3-1988
1	2	3	4	5	6	7	8
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Earmarked Funds							
Capital Construction Fund	2,68,76,73,953	16,19,87,000	9,93,18,535	...	2,94,89,64,188	...	2,94,89,64,188

1	2	3	4	5	6	7	8
Permanent Disablement Benefit Reserve Fund	97,75,07,419	21,26,42,000	11,88,67,796	1,63,10,000	1,32,53,27,215	13,32,32,599	1,19,20,94,616
Dependants' Benefit Reserve Fund	55,94,54,899	10,51,66,000	6,80,31,208	74,79,000	74,01,31,107	4,85,94,224	69,15,36,883
ESIC Provident Fund (including Contributory Provident Fund)	16,58,57,784	8,68,53,303		—	25,27,22,087	4,87,01,861	20,40,20,226
ESIC Group Insurance Fund	83,66,282	21,45,947	12,67,324	—	1,17,70,553	2,67,120	1,15,12,433
Depreciation Reserve Fund of buildings for the offices of the Corporation	1,62,35,701	13,06,620	18,67,251	—	1,94,09,572	1,16,741	1,92,92,831
Depreciation Reserve Fund of Hospital buildings	19,18,21,957	1,17,69,040	2,12,95,359	—	22,48,86,356	26,82,259	21,22,04,097
Staff Cars Replacement Reserve Fund	21,86,391	3,37,170	2,65,429	—	27,88,990	2,30,261	25,58,729
Repairs & Maintenance Reserve Funds of Office Buildings & Staff Quarters	2,71,96,543	52,26,480	19,76,382	—	3,43,99,405	13,90,251	3,30,09,154
Repairs & Maintenance Reserve Funds of Hospital Buildings	35,78,61,396	4,70,76,160	3,49,84,836	—	43,99,22,392	1,59,32,499	42,39,89,893
Pension Reserve Fund for Employees	48,80,52,291	5,40,05,941	5,93,48,813	3,90,43,000	64,04,50,045	2,67,21,812	61,37,28,233
	5,48,21,98,616						6,36,29,11,283
Other Funds	75,00,00,000						75,00,00,000
	6,23,21,98,616						7,11,29,11,283

SCHEDULE 'F'

Deposits

Particulars	Balance as on 31-3-1987	Deposits/credits during the year	Transfers/adjustments during the year	Balance as on 31-3-1988
	Rs.	Rs.	Rs.	Rs.
1. Deposits of Securities	16,28,294	5,87,243	7,17,646	14,97,891
2. Deposits from bills payable to other parties	4,09,594	78,52,075	75,51,825	1,09,844
3. Unclaimed deposits in ESIC Provident Fund	17,987	—	—	17,987
4. Miscellaneous Deposits	1,30,16,716	57,592	35,44,565	95,29,743
TOTAL	1,50,72,591	84,96,910	1,18,14,036	1,17,55,465

SCHEDULE 'G'

Fixed Assets

Particulars	Balance as on 31-3-1987	Additions during the year	Adjustment/ recovery during the year	Balance as on 31-3-1988
	Rs.	Rs.	Rs.	Rs.
Lands & Buildings				
(i) Owned by the Corporation				
(a) Office buildings	12,04,69,737	6,93,58,340	—	18,98,28,077
(b) Hospitals & Dispensaries	1,14,88,16,121	21,67,18,822	—	1,36,55,34,943
(ii) Jointly owned with the State Governments	11,85,085	—	—	11,85,085
Staff Cars	16,38,181	97,447	—	17,35,628
Total	1,27,21,09,124	28,61,74,609		1,55,82,83,733
Capital works in progress (Advanced from Capital Construction Reserve Fund)	60,04,42,423	19,81,89,699	29,16,76,278	50,69,55,844

SCHEDULE 'H'

Investments-Reserve Funds

Sl. No.	Particulars	Balance as on 31-3-1987	Net additions during the yr.	Balance as on 31-3-1988
		Rs.	Rs.	Rs.
Earmarked Funds				
1. Capital Construction Reserve Fund		81,67,44,587	6,87,15,652	88,54,60,239
2. Permanent Disablement Benefit Reserve Fund		97,75,07,419	21,45,87,197	1,19,20,94,616
3. Dependants' Benefit Reserve Fund		55,94,54,899	13,20,81,984	69,15,36,883
4. ESIC Provident Fund		16,58,57,784	3,81,62,442	20,40,20,226
5. ESIC Group Insurance Fund		83,66,282	31,46,151	1,15,12,433
6. Depreciation Reserve Funds of Buildings for offices of the Corporation		1,53,55,441	2,78,704	1,56,34,145
7. Depreciation Reserve Fund Hospital Bldgs.		17,51,19,816	3,01,05,798	20,52,25,614
8. Staff Cars Replacement Reserve Fund		21,86,391	3,72,338	25,58,729
9. Repairs & Maintenance Reserve Fund for office buildings.		1,62,54,516	29,14,171	1,91,68,687
10. Repairs & Maintenance of Hospital Buildings		28,76,93,537	5,78,21,178	34,55,14,715
11. Pension Reserve Fund for Employees		48,80,52,291	12,56,75,942	61,37,28,233
		3,51,25,92,963	67,38,61,557	4,18,64,54,520
Other Funds				
Contingency Reserve Fund (Emergency Reserve Fund)		75,00,00,000		75,00,00,000
Grand Total		4,26,25,92,963	67,38,61,557	4,93,64,54,520

SCHEDULE 'T'
ESI GENERAL RESERVE
(General Cash Balance) Investment

As per last Balance Sheet	3,34,28,06,253
Add : Investments during the year	3,13,98,00,000
Less : (i) Investments realised on maturity	(—)1,30,09,02,217
(ii) Investments transferred to various Reserve Funds	(—)67,38,61,557
Balance as on 31-3-1988	4,50,78,42,479

SCHEDULE 'J'
Advances towards Repairs & Maintenance and Special Repairs of Hospitals/Dispensaries/Offices

Particulars	Balance as on 31-3-87	Additions made during the year	Adjustments/ recoveries during the year	Balance as on 31-3-1988
	Rs.	Rs.	Rs.	Rs.
Repairs and Maintenance				
(a) Offices of the Corporation	1,09,42,027	39,09,303	10,10,863	1,38,40,467
(b) Hospitals/Dispensaries	7,01,67,859	2,60,24,421	1,77,17,102	7,84,75,178
Special Repairs				
(a) Offices of the Corporation	8,80,260	29,50,970	1,72,544	36,58,686
(b) Hospitals/Dispensaries	1,67,02,141	46,06,541	43,30,199	1,69,78,483
	9,86,92,287	3,74,91,235	2,32,30,708	11,29,52,814

SCHEDULE 'K'
Details of Other Advances

Sl. No.	Particulars	Balance as on 31-3-1987	Payments during the year	Recoveries during the year.	Balance as on 31-3-1988
		Rs.	Rs.	Rs.	Rs.
1.	Permanent Advance to Head of Office	2,78,057	32,005	275	3,09,787
2.	Advances of pay on transfer of employees	1,300	2,32,740	1,81,373	52,667
3.	Advances of T.A. on transfer of employees	2,87,707	7,38,119	7,46,306	2,79,520
4.	Advance of purchase of conveyance	27,04,764	56,00,133	18,29,098	64,75,799
5.	House Building Advances	2,03,89,707	76,80,257	36,63,984	2,44,05,980
6.	Festival/Fan/Flood Advances	29,70,505	37,73,043	45,19,950	22,23,598
7.	Other miscellaneous advances	67,74,819	76,54,939	83,18,979	61,10,779
8.	Loans to Maharashtra Government prior to 1977-78 for construction of hospitals	75,40,000	..	14,93,334	60,46,666
	Total	4,09,46,859	2,57,11,236	2,07,53,299	4,59,04,796

E.S.I. Corporation, Provident Fund

Receipts and Payments as on 31st March, 1988

RECEIPT	Amount	PAYMENT	Amount
	(in whole Rs.)		(in whole Rs.)
1. Opening Balance		Payment made to	
Employees'		the subscribers	
Subscription:		during the year 1987-88	
(i) GPF	16,58,16,998.96	(i) GPF	4,85,01,376.50
(ii) CPF	3,58,056.15	(ii) CPF	42,751.00
	<u>16,58,75,055.11</u>		<u>4,85,44,127.50</u>
2. Receipts during the year		Closing Balance	
Employees'		(i) GPF	20,40,08,141.01
Subscription:		(ii) CPF	-Nil-
(i) GPF	6,57,88,786.98		<u>20,40,08,141.01</u>
(ii) CPF	22,286.50		
	<u>6,58,11,073.48</u>		
3. Interest			
(a) On own share			
(i) GPF	2,01,05,794.57		
(ii) CPF	2,928.00		
	<u>2,10,08,722.57</u>		
(b) On Corporation Share:			
CPF	-Nil-		
4. Corporation share			
of contribution for			
1987-88	-Nil-		
5. Incentive Bonus			
(i) GPF	1,016.00		
(ii) CPF	-Nil-		
	<u>1,016</u>		
6. Less : Amount Trans-			
ferred to:			
(a) Un-claimed Deposits			
(i) GPF	-Nil-		
(ii) CPF	-Nil-		
(b) Pension Reserve Fund			
(i) GPI	—		
(ii) CPF	1,43,598		
7. Miscellaneous Receipts	—		
	<u>25,25,52,268</u>		<u>25,25,52,268</u>

The net difference of Rs. 25,058.50 and of Rs. 12,772.95 in respect of Receipts and Payments respectively are explained as under:—

Receipt	G.P.F.		C.P.F.	
	Rs.	P.	Rs.	P.
(A) Difference as on 31-3-1987	(—)18,877.40		(—)244.25	
Adjustment during the year	(+)45,240.65		(—)1,750.00	
	(+)201.00*			
Net difference as on 31-3-1988	(+)26,564.25		(—)1,505.75	
Net difference on Receipt (A) Rs. 25,058.50 Excess in A/cs.				
(B) Difference as on 31-3-1987	(+)3,033.95		(—)4,396.00	
Adjustment made during the year	(+)36,151.00		(—)22,016.00	
Net Difference as on 31-3-1988	(+)39,184.95		(—)26,412.00	
Net Difference of Payment (B)	(+)12,772.95			
Total Net difference ('A' — 'B') + 12,285.55				

*Difference of Rs. 201/- is due to totalling mistake in Gujarat Region.

**CONSOLIDATED AUDIT REPORT
ON THE ACCOUNTS OF THE
EMPLOYEES' STATE INSURANCE CORPORATION
FOR THE YEAR 1987-88**

AUDIT REPORT ON THE EMPLOYEES STATE INSURANCE CORPORATION, NEW DELHI FOR THE YEAR 1987-88

The Employees State Insurance Corporation was established under the Employees' State Insurance Act 1948 to provide for certain benefits to employees of all non-seasonal factories using power and employing more than 20 persons etc., in the contingencies of sickness, maternity and employment injuries. The Scheme covers employees drawing wages upto Rs. 1600 per mensem. The Scheme provides for medical care and treatment, cash benefits during sickness, maternity and employment injury and pension to dependants on the death of Insured workers due to employment injury and payment towards expenditure on funeral of insured persons. Medical care is also provided for members of the families of employees under this scheme.

The Corporation does not receive any financial assistance from the Central Government. The Consolidation of accounts at Hqrs. Office is done on receipt of Receipts and Payments accounts from 25 circles. The Corporation has however, 16 Regional Offices and 3 Sub-Regional Offices for administrative purpose.

An analysis of the Income and Expenditure of the Corporation for 1986-87 and 1987-88 is given under :—

INCOME	1986-87	1987-88
	(Rs. in lakhs)	
1. Employers & Employees' Contribution income (including interest on contribution).	32,340	32,412
2. Interest & Dividends	4,092	5,227
3. Compensation	273	203
4. Grants in aid		12
5. Delhi Administration's share of benefit initially incurred by the corporation.	45	
6. Miscellaneous including rent, rates & taxes.	1,171	1,21
	37,921	39,53

EXPENDITURE	1986-87	1987-88
	(Rs. in lakhs)	
1. Benefit to persons and their families.		
(A) Medical Benefit.		
(i) Payment to State Governments as Corporation share of expenses on providing medical treatment and Maternity Facilities etc.	10,700	9,936
(ii) Medical care & Maternity facilities (expenses incurred directly by the Corporation.	861	1,135
(B) Cash & other benefits to Insured Persons & their families by the Corporation.	10,361	10,452
2. Administrative expenditure.	3,441	4,023
3. Hospital & Dispensaries.	539	588
4. Capital construction Reserve Fund & Contingency Reserve Fund	1,746	1,620
Excess of Income over expenditure	10,273	11,781
	37,921	39,535

2. Contingency Reserve Fund.—The Corporation in contravention of Employees State Insurance Act, 1948 and rules and regulations made thereunder, and without the specific approval of concerned Administrative Ministry created an Emergency Reserve Fund in 1973-74 with the prime object of neutralising the effect of any possible budgetary deficit which in future might be caused due to unforeseen or abnormal rise of expenditure.

The Reserve Fund was to be credited with 20% of the Income of each year subject to a minimum of Rs. one crore or the whole of the income if it was less than Rs. one crore. In November 1986 it was decided that the balance in the contingency reserve fund would be limited to Rs. 75 crores. The limit of Rs. 75 crores was reached in 1986-87 but no rules regulating the administration of contingency reserve fund were framed during all these years.

which in fact should have been framed and approved by the competent authority at the time of creation of fund itself.

The Corporation stated in (July 1988) that no contingency requiring the utilisation of funds out of contingency reserve fund ever arose since 1973-74. This simply showed that the certain of such reserve was totally unwarranted.

3. Large accumulations (Rs. 88.55 crores) under the capital Construction Reserve Fund—The ESI Corporation transfers 5% of the total income from ESI Contribution in a financial year to the capital construction reserve fund as decided by the Standing Committee in its meeting held on 15th February 82. The expenditure on acquisition of land and construction of hospitals, dispensaries and offices of the Corporation is met out of this fund. A comparative position of funds available under the capital construction reserve fund at the close of the last three years was as under :—

(Rs. in crores)		
1985-86	31-03-1986	76.70
1986-87	31-03-1987	81.67
1987-88	31-03-1988	88.55

Since the Capital Construction Reserved Fund was meant for construction of hospitals, dispensaries etc. large accumulation to the extent of Rs. 88.55 crores under this fund, disclosed that the fund was not being fully utilised for the purpose for which it was created. The Corporation, however, could not furnish reasons for such large accumulations vis-a-vis future plans for its utilisation.

It was stated by the Corporation (October 88) that against the sanctioned aggregate estimates of Rs. 290 crores upto 31st March, 1988 the Corporation had already released Rs. 207 crores. The accumulation of Rs. 88.55 crores in the fund was just sufficient to meet the committed liability. According to the Corporation further provision was essential to meet the cost of construction, expansion and extension programmes.

4. Advances and deposits—Amount advanced for capital expenditure (Rs. 5,069.56 lakhs).

This represented unadjusted amount advanced to the State Government/State Public Works Departments etc. for the purchase of land, construction of hospitals, dispensaries and other buildings till 1987-88. Yearwise break-up of the total outstanding amount as per broad sheet maintained by the Corporation was as under :—

Year	Amount
(Rs. in lakhs)	
Upto 1978-79	381.15
1979-80	74.39
1980-81	256.13
1981-82	193.74
1982-83	287.51
1983-84	322.12
1984-85	422.45
1985-86	353.49
1986-87	946.98
1987-88	1,630.85
Total	5,068.81
Add: Discrepancy between accounts and broad sheet.	0.75
As per accounts.	5,069.56

The corporation stated (August, 1988) that the difference of Rs. 0.75 lakh was due to misclassification and had been rectified in the accounts for August, 1988.

The break up of outstanding advance of Rs. 5,068.81 lakhs as on 31st March 1988 was as under :—

(Rs. in lakhs)	
Completed works	2,683.12
Works in progress	2,007.10
Land	378.59
	5,068.81

The main reason for non adjustment of these advances/deposits was non receipt of expenditure statement of completed works and sale deeds/original cash receipts for purchase of land from the concerned agencies. The Corporation was however, able to adjust Rs. 9.26 crores only during the year against the outstanding amount of Rs. 6004 crores.

5. Advances towards repairs and maintenance and special repairs of offices and hospitals/dispensaries of the Corporation—(a) As per Schedule 'J' of annual accounts a sum of Rs. 138.40 lakhs and Rs. 784.75 lakhs were outstanding as on 31st March 88 on accounts of advances to State Government/State Public Works Departments etc. towards repairs and maintenance of offices of the Corporation and hospitals and dispensaries respectively. The year-wise break-up of outstanding advances was as under :—

Year	Offices	Hospitals and dispensaries	Total
(Rs. in lakhs)			
Upto			
1979-80	15.95	77.92	93.87
1980-81	5.20	40.55	45.75
1981-82	5.95	37.22	43.17
1982-83	10.25	28.58	38.83
1983-84	14.32	29.08	43.40
1984-85	12.96	133.03	145.93
1985-86	16.31	48.49	64.90
1986-87	18.41	121.44	139.85
1987-88	39.14	268.51	307.65
	138.43	784.92	923.35
Accounts figure	138.40	784.75	
Difference	.03	.17	

Yearwise break-up prior to 1979-80 was not available. Year-wise break-up of the figures showed that there was a difference of Rs. 0.03 and 0.17 lakhs respectively under the heads advances for repairs and maintenance (a) offices of the Corporation and (b) hospitals/dispensaries respectively which needed reconciliation.

(b) Advances amounting to Rs. 36.59 lakhs and 169.78 lakhs were outstanding on account of special repairs to the office of the Corporation and Hospitals/dispensaries respectively. Yearwise break up of these figures was as under :—

Year	Amount	
	Offices	Hospital/dispensaries
(Rs. in lakhs)		
1982-83	..	4.09
1983-84	..	12.17
1984-85	1.72	14.81
1985-86	1.87	31.44
1986-87	2.00	63.15
1987-88	31.00	44.12
Total:	36.59	169.78

No tangible efforts to clear/adjust these advances were made by the Corporation.

6. Miscellaneous deposits :—A credit balance of Rs. 95.30 lakhs was lying unadjusted under the head (IV) Miscellaneous deposits as on 31st March, 1988 (Yearwise break up is given below). The balance represented the cumulative effect of the figures booked under the following heads :—

	(Rs. in lakhs)
(a) Unclassified receipts	91.83
(b) (—)Unclassified payments	(—)2.54
	89.29
Add	
(c) Deposits from ILO	4.57
(d) Repayment of Addl. D.A. deposit	.63
(e) Miscellaneous deposit	2.06
	95.29
Yearwise break up was as under:	
Upto 1985-86	75.74
1986-87	14.21
1987-88	5.34
	95.29
As per accounts	95.30
Difference	(—)0.01

Yearwise breakup prior to 1985-86 was not available with the Corporation. As such it could not be verified since when the unclassified receipts and payments were lying under suspense.

The difference of Rs. (—)0.01 lakh between the figures of broad sheet and those of the annual accounts was still to be reconciled.

The Corporation stated (October 1988) that the items had remained unclassified due to non-receipt of particulars from the bankers which raised credits/debits. The follow up action in the matter was being taken by issuing necessary instructions to the bankers.

7. Other miscellaneous advances Rs. 61,10,779 :—The outstanding balance of miscellaneous advances was shown at Rs. 61.11 lakhs as on 31st March 1988. This comprised of Rs. 1.72 lakhs pertaining to cases of theft/embezzlement and Rs. 59.39 lakhs pertaining to miscellaneous contingent advances. Yearwise breakup of miscellaneous contingent advances was as under :—

Year	Amount
	(Rs. in lakhs)
Upto 1979-80	5.36
1980-81	1.70
1981-82	1.65
1982-83	1.19
1983-84	0.96
1984-85	1.75
1985-86	5.14
1986-87	11.78
1987-88	29.86
Total :	59.39

The advances were given to various parties for supplies made and services rendered and to various Regional Offices for petty expenses etc. The detailed adjustment accounts from the various parties were still awaited.

As regards Rs. 1.72 lakhs on account of cases of theft/embezzlement booked under the head, it was stated that details of cases were not available at the Hqrs. Officer and that these were stated to be kept at the Regional Office.

8. Incomplete records of immovable property—Land and Buildings :—The Balance sheet as on 31st March, 1988 showed Land and Building at Rs. 15,565.47 lakhs. The Register of land and building was not complete, as a result of which the value of assets shown in the Balance Sheet could not be verified in Audit. This was also pointed out in Audit reports of the earlier years. The consolidated register which was stated to be under preparation at the time of audit for 1985-86 and 1986-87 was not shown during current audit also.

9. On account payment amounting to Rs. 50,935.64 lakhs, pending adjustment for want of Audit Certificate :—A sum of Rs. 50,935.64 lakhs was pending adjustment under the head on account 'Payment made upto 1987-88 to various State Governments towards their share of cost of medical benefits extended to the insured persons and their families'. Out of this amount Rs. 39,936.46 lakhs was outstanding on account of payments for the period upto 1986-87 for want of audited statement of accounts supported by Audit Certificates as detailed below :—

Year	Amount outstanding
	(Rs. in lakhs)
1973-74	7.20
1974-75	9.00
1975-76	112.74
1976-77	..
1977-78	267.38
1978-79	1,822.96
1979-80	1,425.87
1980-81	1,806.55
1981-82	4,246.30
1982-83	4,080.77
1983-84	4,739.48
1984-85	5,103.01
1985-86	6,745.89
1986-87	9,569.31
Total:	39,936.46

No effective steps for obtaining the audited statements of account supported by the audit certificates had been taken. No adjustment was made during the last 3 years in the 'on account advances' pertaining to 1973-74 to 1981-82. During the year 1987-88 adjustment of Rs. 2,131.40 only out of Rs. 42,067.86 was made. *

10. Arrears of contribution :—The position of arrears of contribution recoverable from employers/employees of the factories/establishments was available in respect of 20 Regional Offices/Sub-regional offices. A total sum of Rs. 9,284.00 lakhs was over due for recovery from employees/employers of 26,902 factories/establishments. The details of arrears were as given below :—

S. No.	State-Region/sub-region	No. of employees/ Establishments/ factories in default	Arrears of contribution (Rs. in lakhs)
1.	Andhra Pradesh	2,351	471.14
2.	Assam	560	71.92
3.	Bihar	915	476.21
4.	Delhi	1,200	139.61
5.	Gujarat	1,074	185.51
6.	Haryana	1,841	310.28
7.	Karnataka	1,785	368.77
8.	Kerala	2,281	506.16
9.	M.P.	999	801.59
10.	Bombay	2,766	1,190.36
11.	Nagpur	297	134.48
12.	Pune	1,846	197.61
13.	Goa	87	18.21
14.	Orissa	222	67.05
15.	Punjab	1,922	358.40
16.	Rajasthan	1,196	239.67
17.	Tamilnadu	2,903	508.90
18.	Pondicherry	50	4.57
19.	Uttar Pradesh	444	680.44
20.	West Bengal	2,163	2,552.82
Total:		26,902	9,284.00

The Corporation had stated (September 1987) that the arrears would be reduced significantly by enlisting the co-operation of Central and State Government concerned. It was however, noticed that the arrears had gone up by Rs. 1,750 lakhs against the marginal increase of 1,769 in the number of establishments during 1987-88.

11. Damages :—Under the ESIC Act Rules framed thereunder Corporation is empowered to recover damages not exceeding the amount of arrears from employers as and when they failed to pay any contribution within the prescribed period. These damages were to be recovered as arrears of land revenue.

An amount of Rs. 1,582.87 lakhs excluding the amount due from Bihar region was outstanding in various States/Regions on account of damages as on 31st March, 1988 as per yearwise details given below :—

	Amount (Rs. in lakhs)
1975-76	0.57
1976-77	27.59
1977-78	66.06
1978-79	152.07
1979-80	170.25
1980-81	253.51
1981-82	166.59
1982-83	163.77
1983-84	45.84
1984-85	103.95
1985-86	118.91
1986-87	208.11
1987-88	105.65
Total:	1,582.87

There had been an increase of Rs. 488.87 lakhs in arrears as against last years figures of 1,094 lakhs.

12. Decreeal amounts :—In the event of failure to recover contribution from the employer, the Corporation is empowered under section 75(2) of the employees State Insurance Corporation Act, 1948, to get the decrees awarded from the Employee's Insurance Courts on the defaulting employers. The total amount of outstanding decreeal awards with the Employee's State Insurance Corporation as on 31st March, 1988 amounted to Rs. 34.86 lakhs. The yearwise break up was as detailed below :

	No. cases	Amount (Rs. in lakhs)
Opening Balance	408	37.43
Added during the year	6	0.03
	414	37.46
Less: Realisation	31	2.60
	383	34.86
Year of decree		Amount (Rs. in lakhs)
1970-71		13.65
1971-72		0.20
1972-73		1.70
1973-74		0.85
1974-75		1.21
1975-76		0.79
1976-77		4.34
1977-78		0.97
1978-79		0.03
1979-80		1.26
1980-81		0.14
1981-82		0.23
1982-83		3.38
1983-84		0.29
1984-85		0.90
1985-86		1.37
1986-87		3.49
1987-88		0.06
Total:		34.86

The Statewise figures where the decreeal amount exceeded Rs. 2 lakhs as on 31st March, 1988 were as under :—

	(Rs. in lakhs)
1. Gujarat	2.49
2. Madhya Pradesh	8.23
3. Rajasthan	9.30
4. Uttar Pradesh	8.17
5. West Bengal	2.50
6. Bombay	2.36

It was also observed that decreeal amount in Madhya Pradesh and West Bengal remained the same for the late 3 years, due to lack of follow up action by Corporation. It was stated by the Corporation (Oct. 1988) that follow up action for the execution of decrees was being active pursued.

13. Blockade of funds amounts to Rs. 182.06 lakhs spent on vacant plots :—As on 31st March, 1988, 43 plots out of 48 plots mentioned in Separate Audit Report for 1986-87 purchased by the Corporation during the period 1965-86 for construction of ESIC hospitals, dispensaries and regional offices were lying vacant. The Corporation had spent a sum of Rs. 182.06 lakhs on the purchase of land and raising of boundary walls of these plots.

Reasons	Period of purchase	No. of plots	Cost (Rs. in lakhs)
1. Land encroached	1968	1	1.88
2. Possession not yet made over to Corporation	1982-85	6	10.65
3. Land not suitable	1983-85	2	10.57
4. Land under litigation	1965-85	5	11.73
5. Plans and estimates not received	1976-85	18	100.41
6. Plans and estimates under scrutiny	1981-85	9	36.00
7. E.S.I. Scheme not yet implemented	1966-71	2	10.82
Total:		43	182.06

14. Infuctuous expenditure of Rs. 68,700/- on construction of boundary wall.—In December 1979, the ESIC acquired a piece of land free of cost from, Faridabad Complex Administration for construction of dispensaries and staff quarters without verifying land in approved plan. In May 1980 an amount of Rs. 68,700 was paid to the Central Public Works Department for the construction of compound wall. In October, 1980 when the work on Compound wall was started, the local residents contested that the site in question was earmarked for a 'Park' in the original plan. The matter was referred for adjudication.

The Court in its interim order dated 13th March, 1981 stayed the construction of the ESI Dispensary and staff quarters. The construction of compound wall had almost been completed by then. The Court again vide its order dated 20th January, 1982 restrained the Corporation from raising any construction over the disputed land. In spite of above interim orders the ESIC went ahead with the work and sanctioned Rs. 7,99,294 in January 81 for the work out of which a sum of Rs. 2.00 lakhs was advanced to CPWD in March 1983 to start the construction.

The Court in its final order (May 1983) directed the ESIC to remove the encroachment raised by it on the disputed land within a month and to restore the park in its original conditions. The CPWD had yet to render the adjustment account for Rs. 2,68,700.00. Had the ESIC verified the land use of plot in the original plan before taking possession, the entire expenditure on the construction of compound wall amounting to Rs. 63,700/- would not have been rendered infuctuous. The Corporation intimated (October, 1988) that the legal adviser of the Corporation opined that the injunction of the Court was only with reference to the land where no construction had started. According to the Corporation as regarding the land where the ESI Corporation had already started construction, it was at liberty to go ahead with the construction activity. Accordingly, the Corporation released an amount of Rs. 2 lakhs for construction purpose.

15. Infuctuous expenditure of Rs. 10.62 lakhs on acquisition of land and construction of boundary wall at Durgapur where the ESI Scheme has not been notified for implementation :—In November, 1965 the Corporation purchased a piece of land measuring 30 acres at a cost of Rs. 4,54,500/- for the construction of 100 bedded hospital staff quarters and a service dispensary at Durgapur where no ESI Scheme

was in operation. Since this land was found to be in excess of actual requirement, the Corporation wrote to the State Government in October, 1978 for resumption of surplus land measuring 10.5 acres. The Corporation subsequently in 3/83 decided to retain the entire piece of land and to go in for the construction of boundary wall of the plot. Although the Corporation knew that there was no likelihood of the ESI Scheme being implemented in Durgapur in June, 1986 funds to the extent of Rs. 6,07,700 were released to the State PWD for the construction of boundary wall. The Corporation reviewed the position and came to the conclusion in October, 1986 that there were no prospects of the Scheme being implemented in Durgapur in near future. Since then the proposal for the disposal of land was under its consideration.

When there were no prospects of the scheme being implemented at Durgapur, it was injudicious to invest a sum of Rs. 6,07,700 on the construction of boundary wall in addition to the cost of the land amounting to Rs. 4,54,500. Thus an amount of Rs. 10.62 lakhs stands blocked.

16. Construction of ESI Dispensary at Ambona Rs. 81,605 lying unspent/unadjusted for over 25 years.—The ESIC agreed to the proposal of the Govt. of Bihar for the construction of an ESI Dispensary and staff quarters at Ambona in 1962. The Government of Bihar offered a piece of land measuring 4.60 acres free of cost. Estimates amounting to Rs. 2,32,250/- were sanctioned in 1963 which were revised to Rs. 1,94,411/-. Out of the sanctioned estimates a sum of Rs. 92,172/- was released to State PWD on 4th March, 1964.

While the construction was going on in November 1969 the Government of Bihar informed the ESI Corporation that the only factory at Ambona was permanently closed and as such the construction work of the dispensary was suspended. Since then the ESI had been trying to dispose of the land and structure but no success had been achieved in this regard.

Out of funds (Rs. 92,172) which were advanced to State PWD in March 1964 adjustment accounts for Rs. 10,567/- only had been rendered by the State PWD. The balance amount of Rs. 31,605 was lying unspent/unadjusted with the State PWD for over 24 years.

The Corporation stated (October 1988) that the matter was being vigorously pursued and in case no refund was received, recovery of Rs. 81,605/- shall be made from the 'On Account' payment payable to the State Government for medical benefit.

Place : New Delhi

Dated : 2-11-88.

Sd/-

Director of Audit-I

Central Revenues : New Delhi-2.

Audit Certificate

I have examined the Accounts and the Balance Sheet of the Employees' State Insurance Corporation for the year 1987-88. I have obtained all the information and explanations that I have required, and subject to the observations in the appended Audit Report, I certify as a result of my audit, that in my opinion these Accounts and Balance Sheet are properly drawn up so as to exhibit a true and for view of the state of affairs of the Corporation according to the best of my information and explanation given to me and as shown in the books of the Corporation.

Sd/-

Director of Audit I

Central Revenues : New Delhi-2

Place : New Delhi

Dated : 2-11-88.

Statement showing progress of Audit of the Accounts of Employees' State Insurance Corporation for the year 1987-88.

1. Receipt of Annual Accounts English Version	9-6-88
2. Duration of Audit Transaction Audit Certification of Accounts	2-5-88 to 23-5-88 14-7-88 to 10-8-88
3. Inspection Report/Proposed SAR received at Hqrs.	16-8-88
Received back from I.C. on	25-8-88
4. Discussion of Inspection Report/SAR	10-8-88
5. Additional information received from the Audited Organisation	21-10-88
6. Draft Audit Report sent to Audited organisation.	27-9-88
7. Receipt of comments of the Audited Organisation.	20-10-88
8. Final Audit Report issued to Government.	9-11-88

[No. Z-16016/4/88-SS. I]
A.K. BHATTARAI, Under Secy.

